

Fourth Edition

Law Enforcement

in the **21st Century**



Heath B. Grant
Karen J. Terry



FOURTH EDITION

LAW

ENFORCEMENT IN THE 21ST CENTURY

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Preface

When we conceived of *Law Enforcement in the 21st Century*, our intention was to present a fresh, new approach to learning introductory law enforcement material in a way that could be both practical for the future law enforcement officer and intellectually rewarding for the reader entering a new field of study. To meet these two important needs, the text provides a comprehensive overview of research and practice, and links theories of policing and police practice through the use of various problem-solving applications. Additionally, *Law Enforcement in the 21st Century* is the first policing textbook to examine *linkage blindness*—the inability to analyze information across or within agencies—in the criminal justice system.

The text is organized in a developmental framework, taking the reader from the origins of policing through the new and innovative technologies used today. It is divided into three parts:

- Part 1 lays out the framework of the law enforcement field for the reader, establishing common definitions and tracing the origins and developments of the field up to the end of the professionalization movement.
- Part 2 presents the more traditional functions and operations of law enforcement (i.e., structure and operations), as well as the defining factors of policing (i.e., discretion and use of force).
- Part 3 encourages the readers to consider future directions, trends and challenges in law enforcement, including issues related to technology, recruitment, training, and policing diverse communities.

► The Themes of the Book

Many myths and stereotypes surround policing, including the ever-prevalent image of a law enforcement officer as crime fighter. However, the average officer rarely makes a felony arrest, and most do not fire their firearms during their careers. Yet by definition, the term “law enforcement” suggests that the enforcement of existing legislation or rules of society is central to the role of the police. This rather simplistic view of law enforcement ignores the tremendous complexities in agencies, missions, and functions across levels of government (federal, state, and local) or jurisdiction in the United States. This book explores the changing dynamics and nature of policing within its larger contexts. Although the terms are utilized interchangeably on occasion, the emphasis on *law enforcement* as opposed to *policing* reflects the larger scope and focus of the book.

A central theme of this text is the linkages across law enforcement jurisdictions and the struggle to develop a coordinated approach to information sharing and strategy development in the face of any crime. Additionally, the text explains the connections between law enforcement and the rest of the criminal justice system, and the importance of information sharing and collaboration across the criminal justice system agencies (and thus, the relevance of linkage blindness in this context as well). New technologies to combat linkage blindness are highlighted in Chapter 12.



Another central theme of this text is the changing paradigm of policing throughout its history, highlighting the movement from reactive to proactive management models. A major philosophical and practical shift in the field of law enforcement came when Herman Goldstein (1979) pioneered the principles of problem-oriented policing. Law enforcement agencies continue to use problem-solving approaches in community-oriented policing to address quality-of-life concerns. This central element of problem solving and proactive policing is relating underlying causes to strategy, which is yet another theme revisited throughout the text.

Throughout the text, *Linkages and Law Enforcement* features persuade readers to relate concepts and issues presented in a current chapter to earlier material or current events, thereby encouraging a developmental learning approach. These Linkages also help the reader to explore another major theme in the book—balancing the concerns of public safety with those of individual freedoms or due process. These text boxes highlight the book’s central themes of inter- and intra-agency sharing, balancing of public safety and individual interests, and proactive strategy developments. Questions at the end of each Linkage Box challenge the reader to relate current material to earlier concepts, reinforcing the text’s developmental emphasis.

► New to This Edition

The Fourth Edition of *Law Enforcement in the 21st Century* builds upon the developmental framework of the first three editions, though material is updated and streamlined. The authors included only the material that is essential to learning about the development of law enforcement and its functions and challenges. Additional *Linkages in Law Enforcement* text boxes have been added throughout the text, which help guide readers through exercises to better learn the core concepts presented. New policing challenges, such as school safety have been introduced, while concepts such as legitimacy have been woven throughout the text. Important new technologies such as body cameras and LPRs are also discussed for the reader.

In addition to the updated information in the text, the supplements to the text have been greatly enhanced in this edition. The authors have created clearer summaries of each chapter, test bank questions, and PowerPoint lectures for instructors to follow. The authors have also created a MyCrimeKit supplement for students, which offers additional pedagogical approaches to learning the material and thought-provoking questions to help guide their understanding of the material. Both the instructor’s manual and the MyCrimeKit contain links to supplemental information about law enforcement for those who want to develop their understanding of the field beyond the introductory level.

► Instructor Supplements

Instructors receive three supplements with the Fourth Edition of *Law Enforcement in the 21st Century*:

- **Instructor’s Manual with Test Bank.** Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.
- **TestGen.** This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question



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▶ ALTERNATE VERSIONS

- **eBooks.** This text is also available in multiple eBook formats. These are an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With an eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, visit your favorite online eBook reseller or visit www.mypearsonstore.com.



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About the Authors

Formerly the Research Director at the Police Executive Research Forum, Dr. Grant has over twenty years of experience offering training and technical assistance to law enforcement agencies internationally. This includes recent work in community policing with the Bangladesh National Police. He led a national team of community policing experts for the Bureau of Justice Assistance to review cultural diversity practices in police departments across the United States, and used this research to develop an evidence-based training program for local law enforcement. He has also helped to develop effective prevention programs internationally for United States Agency for International Development and other organizations in over ten countries (including a program recognized on Office of Juvenile Justice and Delinquency Prevention's Blueprints for Violence Reduction). His expertise in citizen security and youth justice issues has led to his involvement in international assessment teams in Trinidad and Tobago, Guyana, and other Caribbean countries.

Karen J. Terry, Ph.D., is a professor in the Department Criminal Justice at John Jay College of Criminal Justice and on the faculty of the Criminal Justice Doctoral Program at the Graduate Center, CUNY. She holds a doctorate in criminology from Cambridge University. Her primary research interest is sexual offending and victimization, particularly abuse of children in an institutional setting, and she has received nearly \$4 million in federal and private grants. Most significantly, she was the principal investigator for two studies on sexual abuse of minors by Catholic priests in the United States. She has also received funding to evaluate the crime decline in New York City; evaluate stop and frisk practices and other policing practices; enhance criminal justice education in China; and provide educational opportunities to train students in homeland security.



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Sean Adair/Reuters/Corbis

Although not a new issue, the necessity of communication across all levels of law enforcement (federal, state, and local) became all too apparent following the tragic events of September 11. Coordination and collaboration with respect to homeland security need to occur both before and immediately after a terrorist attack. Recognition of this fact has led to the formation of the Department of Homeland Security.

1 Law Enforcement in a Democratic Society

LEARNING OBJECTIVES

- 1 Discuss how the events of September 11 changed the structure of law enforcement jurisdictions.
- 2 Describe the concept of linkage blindness and its importance in the criminal justice system.
- 3 Understand the police role in maintaining social control.
- 4 Explain why discretion is a necessary aspect of policing.
- 5 Explain what is meant by the rule of law.
- 6 Recognize the role of law enforcement in the criminal justice system.
- 7 Illustrate the importance of legitimacy and a culture of lawfulness to policing.
- 8 Contrast the crime control and due process models.
- 9 List the different levels of law enforcement.



► Introduction

Following the cataclysmic events of September 11, many people asked themselves, “How did this happen?” Despite incidents such as the 1995 bombing of the Murrah Federal Building in Oklahoma City, most Americans have viewed terrorism as a problem somewhere else, such as in Israel, Northern Ireland, or Rwanda. People in the United States have always taken pride in the immense individual rights and freedoms they possess, as these are the fundamental premises upon which the country was built. In fact, Americans have generally disapproved of extensive domestic efforts that intrude on their day-to-day activities, preferring, for example, express check-ins at the airport over complete baggage checks.

Prior to the attacks on the World Trade Center and Pentagon, neither the average American citizen nor the government was particularly concerned with the prospect of international terrorism on U.S. soil. This was the case even though a number of reports, such as the Hart–Rudman Commission on National Security in the Twenty-First Century, had concluded that the U.S. government had no organizational capacity to either prevent or respond to terrorist threats (Flynn 2001). Moreover, a 1999 government report intricately profiled the leading terrorists and terrorist groups around the world, specifying the kinds of risks that existed, noting how future acts might occur, and demonstrating that the U.S. intelligence community was not completely blind to the potential threat of attack (Hudson 1999). However, in the wake of the destruction of September 11, Americans are now faced with a sense of insecurity and vulnerability that will have an impact on the delicate balance the country has always known between order and individual freedoms. This affects all aspects of public and private life, including transforming the nature and function of how we view and conduct law enforcement, which is the subject of this book. Federal legislations, particularly the [USA PATRIOT Act of 2001](#),¹ the [Homeland Security Act of 2002](#), the [USA PATRIOT Improvement and Reauthorization Act of 2005](#), the [PATRIOT Sunsets Extension Act of 2011](#), and the [USA Freedom Act of 2015](#), have formally acknowledged this shift by significantly widening the investigative authority of law enforcement agencies across the country.

Despite federal, state, and local inquiries, law enforcement and criminal justice experts argue that blame for the failure to anticipate the September 11 attacks cannot be attributed to any single agency. Given the complexity of both the intelligence and law enforcement communities and their many overlapping jurisdictions, it was inevitable that key information would slip through the cracks between agencies. The inability to analyze and link critical information across (or even within) an agency is called [linkage blindness](#) and will be a major theme throughout this book. In part, the Homeland Security Act of 2002, the USA PATRIOT Act of 2001, and its reauthorization in 2005 were government responses to the problem of linkage blindness by organizing diffuse and autonomous law enforcement agencies and strengthening the government’s abilities to obtain information. Stephen Flynn (2001) provides a useful illustration of this critical law enforcement problem, referring to the arrival of a hypothetical ship with questionable cargo and a crew on an intelligence watch list for potential terrorist ties:

The Coast Guard would be likely to know about the scheduled arrival of a tanker carrying hazardous cargo. The Customs Service might have some advance cargo manifest information. The INS might or might not know much about the crew, depending on the kinds of visas the sailors are holding and the timeliness with which the shipping crew faxed the crew list. None of the front-line inspectors in these agencies, meanwhile, are likely to have access to national security intelligence from the Federal Bureau of Investigation or the Central Intelligence Agency.² (p. 190)

Although Flynn was referring to linkage blindness prior to the governmental reorganization after September 11, this problem continues to exist. Because of the elusive nature of



terrorism and the apparent ease with which terrorists can slip across U.S. borders, federal to local agencies are requesting increased law enforcement investigative authority. The September 11 attacks offered evidence that, even with a threat of transnational origins, the front-line responders are local law enforcement and fire departments. Thus, terrorism is not simply within the domain of the federal government and military. What has been exposed is the need to build adequate mechanisms of information sharing across levels of government in an area that is traditionally rife with issues of territoriality and rivalry. This need led to the formation of the Department of Homeland Security, the largest government reorganization in over 50 years.

Clearly extremist terrorist groups seeking to oppose or disrupt American government and quality of life will always be a federal national security issue, but as even later events such as the Boston marathon bombings and San Bernadino shootings would also show us, it will always be the local police that are the first to respond when terror strikes. The threat of the radicalized lone wolf capable of causing serious harm is also a new reality and concern of the local law enforcement agency from the standpoint of early detection and prevention. These themes will be gradually developed throughout this introductory text as the reader learns about the many diverse aspects of the law enforcement function and structure in society.

► The Police Function: Social Control and the Use of Force

Most people are relatively familiar with the general operations of the three major components of the criminal justice process—police, courts, and corrections—as well as the important roles of federal and state governments in creating and modifying laws through the legislative process. What we are often unable to answer, however, is what it is about these institutions that makes them work as agents of social control? What is it about them that works (or does not work) in achieving order in society?

Informal social control refers to the influences of parents, families, peers, and the community in training individuals about the norms, rules, and customs of a locality in an attempt to compel conformity (the process by which they do so is called **socialization**). Informal social control occurs when the influential party reacts to **deviance**, or violations of social rules. Deviance refers to a range of actions, from something minor, such as getting a tattoo, all the way up to acts of murder and rape. If an act of deviance occurs and a law is broken, as in the case of murder, it is the responsibility of **formal social control** agents, such as law enforcement officers, to enforce the law.

Many criminal justice practitioners and scholars have argued that the use of force is the principal way in which order is achieved in society: “Institutions of law and government maintain order and control deviant behavior primarily through force, through the forcible apprehension and incarceration of others” (Eisenhower 1970, p. 6). Law enforcement usually is at the forefront when it comes to the application of force and apprehension.

According to Manning (1977), *policing* literally means “controlling, monitoring, tracking, and altering, if required, public conduct” (p. 27). Given the many competing expectations of the police, Klockars (1985) has argued that the meaning of *police* can be found in what they are permitted to do rather than on what exactly is done in a given situation. To Klockars (1985), the potential to use force is core to the concept of policing. Nevertheless, an officer writing traffic citations is still a police officer, as is another speaking at a community meeting, though, in these examples, force is not an element of the policing function. How, then, can **coercive force** be the defining feature of policing?

Egon Bittner’s (1980) classic work argues that it is the fact that the police are authorized to use force in a number of social situations in response to a variety of social





A. Ramey/PhotoEdit, Inc.

The legal authority to use force is considered the defining characteristic of law enforcement even though in reality it is used only rarely. Some studies have found force to be used in only 4.10 of every 10,000 incidents.

problems that forms the basis of our interactions with police. Thus, while a citizen may be equally capable of writing traffic citations, only a police officer will be able to force an individual to comply, if necessary (e.g., if the vehicle's operator had failed to pull over, and so on). Similarly, community residents often involve the police in community meetings discussing even minor quality-of-life issues (e.g., noise disturbances, littering), because they will ultimately be able to resort to force if all other options of problem resolution are not successful.

Although the importance of force in defining policing is clear, it alone cannot achieve the public order for which the police are held accountable. Because the police cannot possibly be omnipresent, punishing all deviations from the law, there must also be a commitment and willingness on the part of the majority of citizens to respect the laws and institutions of society. Without this **culture of lawfulness**, law enforcement would be inundated and unable to carry out its functions effectively (Godson 2000). To achieve this, the average citizen must recognize the legitimacy of the law and its enforcement as an effective means of controlling the behavior of all members of society, from the richest government official to the poorest laborer. Much of this respect will come from the degree to which the government operates within the rule of law and its officials or enforcers do not make decisions arbitrarily, a topic we turn to now.

When the government is seen as operating fairly and justly by the majority of citizens, it is said to have **legitimacy**. The rule-enforcing environment, or legal context, can include such factors as the fair enforcement of rules, the legitimacy of rules, and the role of authority (Grant 2006). The important work of Tyler (1990) sets the stage for understanding the importance of the legitimacy concept to policing in the twenty-first century. Voluntary compliance with the law may itself be tied to the degree to which the criminal justice system and its respective components are viewed as legitimate and deserving of compliance (Tyler 1990). Such perceptions of fair treatment, or



procedural justice, are the product of the day-to-day decisions that individual officers make during their interactions with citizens.

Building police legitimacy covers far more than simply improving police/community relations. It requires that there be a level of transparency and accountability that is felt and understood by the average citizen. Later chapters will look at such innovations as civilian review boards, dashboard and body armor cameras, and other strategies that seek to increase citizen comfort with, and understanding of, the actions of their local police agency.

► Policing Within the Rule of Law: The Challenges of Discretion

Agents at every level of the criminal justice system have a significant level of individual **discretion**, particularly law enforcement officers. Agents have discretion when they have the freedom to make decisions—legal or otherwise—based on their own judgment and they are not bound by formal, inflexible rules. It was in the 1950s, when the American Bar Foundation (ABF) conducted the first field observations of police work, that the central role of discretion in law enforcement was first “discovered” (Walker 1992). Many studies have since validated the significance of discretion in the criminal justice system, but at no point has it ever been officially “recognized” with legislation acknowledging its functional role in police decision making.

Matters such as arrest and charge, for example, are subject to varying degrees of police discretion, as are issues relating to the collection and presentation of evidence. Officers do not receive “official” training on how to use discretion, but legal factors provide a guide in some instances. For the most part, discretion exists to ensure that agents within the criminal justice system are free to respond to the particular circumstances and challenges presented by each new case and each new crime. Because each offense is different, flexibility is needed to ensure that justice prevails. Moreover, it is not possible for officers to enforce every violation they encounter, making discretion a practical and necessary reality in law enforcement.

In many instances, however, the decisions of individual police officers are not transparent or open to scrutiny. The police are not monitored 24 hours a day or required to justify themselves every time they stop someone on the street or in their car. As a consequence, there is a danger that agents within the criminal justice system may make decisions that are not in full accordance with the law or that infringe upon the rights of suspects, offenders, or prisoners.

How can we be sure, then, that two individuals who committed similar crimes would not be treated differently by separate officers or because of **extra-legal factors** (factors outside of the legal parameters of an offense), such as differences in skin color or socioeconomic status? It is because of the perception of inequality in law enforcement that discretion can play a divisive role in the community. Discretion can be the result of numerous community, organizational, and individual influences outside of the formal legal codes, a subject we will return to in Chapter 5. This idea is the underlying rationale for body-worn cameras that will be discussed later.

Although there is no way to ensure that discretion is exercised fairly in every case, principal decisions made by individuals within the criminal justice system are meant to be governed by a set of ideals known as the **rule of law**. Developed over many years through case law, statutes, and scholarly writings, the rule of law means that (National Strategy Information Center 1999):

- All people in society have the opportunity to participate in establishing the law;
- The rules apply equally to everyone; and
- The rules protect individuals as well as society.



The rule of law was developed in an effort to constrain kings and rulers who regarded themselves as above the law. At its heart is a commitment to the fundamental idea that equality before the law and justice are inseparable. Regardless of their position or responsibilities, all agents within the criminal justice system are bound by the rule of law, and they are required to exercise their discretion according to the limits it prescribes. Of course, in practice not every decision meets the high standards required by the rule of law. Much of its significance, however, derives from its status as an *ideal*; it guides individuals and agencies within the system, and binds them together through a shared commitment to justice and the law. Once again, this standard will also inform the extent to which the police are seen as legitimate, as discussed above.

► The Delicate Balance: Crime Control Versus Due Process

Although the “delicate balance” between public safety and individual freedoms has always been a struggle for law enforcement, these issues are particularly salient in the post–September 11 climate. During a lecture immediately following the September 11 attacks, then U.S. Supreme Court justice Sandra Day O’Connor remarked that “we’re likely to experience more restrictions on our personal freedom than has ever been the case in this country” (Greenhouse 2001, p. B5). Despite protestations otherwise by former attorney general John Ashcroft that “we’ll not be driven to abandon our freedoms by those who would seek to destroy them,” some fear the potential “slippery slope” of giving expansive powers to law enforcement (Hentoff 2001).

One of the most influential frameworks for explaining the differing views and values of justice has been the crime control/due process model first expounded upon by the sociologist Herbert Packer in the 1960s. According to Packer (1968), agents within the criminal justice system can be broadly divided into two camps depending on the strength of their support for either strong law enforcement or protection of civil liberties. For those who see the criminal justice system in terms of **crime control**, the overriding aim is to ensure that suspects are processed as quickly and efficiently as possible. Typically, advocates of this approach emphasize the importance of attempting to distinguish between the innocent and the guilty at the pre-charge stage. Though the adversarial system is based on the assumption that an individual is innocent until proven guilty, advocates of the crime control model assume that once a suspect has been formally charged, the suspect can be processed on the basis of an informal “presumption of guilt.” Guilty pleas are preferred over lengthy hearings and trials, and informal methods of disposal are preferred over legalistic procedures. Perhaps unsurprisingly, the police and other law enforcement agencies are the most vocal supporters of a crime control approach to criminal justice. Extensive police powers, limited rights for suspects, and greater emphasis on pretrial processes are all seen as vital to the effective functioning of the system. The danger lies in the extent to which this favoring of crime control undermines the rule of law, and thus potentially the legitimacy of law enforcement and the criminal justice system in society (Skolnick 1994).

In contrast, supporters of a **due process** approach argue that the criminal justice system must strive to protect the rights of the innocent and ensure that only the guilty are punished. Although recognizing that the primary aim of the system is to reduce and prevent crime, adherents of the due process model maintain that safeguards are necessary to protect individual rights and to ensure that the number of wrongful convictions is kept to a minimum. “Better that ten guilty men go free than one innocent man be punished” is an idea that is central to the due process approach. Advocates of this model favor considerable restrictions being placed on the police, are suspicious of informal processes, and view the



TABLE 1-1 Key Features of the Crime Control and Due Process Models

Crime Control Model	Due Process Model
<ul style="list-style-type: none">• Suppression of crime is the overriding aim of the criminal justice system.	<ul style="list-style-type: none">• Justice and fairness are the overriding aims of the criminal justice system.
<ul style="list-style-type: none">• Cases need to be disposed of quickly and efficiently, even if this means ignoring suspects' rights.	<ul style="list-style-type: none">• Cases need to be dealt with according to formal procedures that protect suspects' rights.
<ul style="list-style-type: none">• Emphasis is on pretrial processes and encourages guilty pleas.	<ul style="list-style-type: none">• Emphasis is on the trial process and the determination of legal guilt.
<ul style="list-style-type: none">• Authority of the criminal justice system derives from the legislature.	<ul style="list-style-type: none">• Authority of the criminal justice system derives from the judiciary.

criminal trial as the most reliable method of determining guilt. With the due process model, the civil rights and liberties of citizens outweigh the information needs of law enforcement. Key features of both models are summarized in Table 1-1 ■.

Historically, considerable tension has existed between these two different approaches to crime and the criminal justice process. During the 1960s, the civil rights movement helped to increase public awareness of individual rights and placed considerable pressure on the criminal justice system to expand basic due process protections. Responding to the mood of the times, the Supreme Court under Justice Warren—in cases such as *Escobedo v. Illinois* (1964),³ *Miranda v. Arizona* (1966),⁴ and *Terry v. Ohio* (1968)⁵—moved to specify the powers of the police, emphasizing the need for the criminal justice system to recognize and protect the rights of suspects. The Court also addressed due process concerns in the landmark case of *Gideon v. Wainwright* (1963),⁶ which extended the right to counsel to indigent individuals who would otherwise have been unable to exercise their Sixth Amendment rights.

As crime rates began to rise through the 1970s and 1980s, however, there was a gradual but significant shift toward an emphasis on crime control. Although the largest increase in crime was for the possession and sale of drugs, the rate of serious violent crime—including murder, rape, and robbery—also increased dramatically during this period. In the eyes of many policymakers and the general public, the criminal justice system was clearly failing. Proponents of the crime control model argued that the rise in crime was the direct result of an overemphasis on suspects' rights and called for increased police powers and an easing of due process restrictions on law enforcement agencies.

Throughout the 1990s, the crime control model continued to dominate policymaking in the United States. Mandatory sentencing for repeat offenders, zero-tolerance policing, and the gradual lowering of the age of criminal responsibility for juveniles all grew from a desire to make the criminal justice system more efficient and effective. At the same time, however, several high-profile incidents of police brutality,⁷ police corruption,⁸ and racial profiling⁹ helped to remind the public of the need for due process protections and the respect for civil liberties.

In the first decade of the twenty-first century, crime control values still prevailed, yet there was a continuing tension between the two models first identified by Packer in the 1960s. In light of the past 50 years of criminal justice history, as well as the U.S. government's war on terrorism, there can be little doubt that the struggle between advocates of crime control and due process will continue to shape the development of criminal justice policy throughout the next decade as well.

► The Levels of Law Enforcement

The current system of law enforcement in the United States is as complex as it is varied, in many ways reflecting the tensions between the crime control and due process models. Representing the largest segment of the criminal justice system, with over one million



employees, contemporary law enforcement agencies operate on a variety of levels within local, state, and federal [jurisdictions](#), or areas of responsibility. Although the boundaries across levels would appear to be straightforward since each enforces the laws of its respective level, in practice the boundaries often are more of a gray tint than a black-and-white tone. There is no direct order of authority with respect to these jurisdictions. For example, in most cases federal law enforcement cannot exert authority over local matters unless requested to do so by local authorities. Each level of law enforcement has its own jurisdiction. These difficulties are further fueled by the territorial nature of many law enforcement agencies.

Municipal Agencies

Municipal police departments represent the greatest number of law enforcement officers in the United States and will thus be the primary focus of this text. The United States had 12,656 municipal police jurisdictions in 2003 (Bureau of Justice Statistics 2006a), varying in size from large city departments (e.g., New York Police City Police Department with 36,118 officers in 2004 (Bureau of Justice Statistics 2007)) to local departments with a few officers (the majority). In 2000, there were 501 municipal police departments with 100 or more full-time sworn personnel, but of these, only 60 (11 percent) had 1,000 or more full-time sworn personnel that included 500 or more officers responding to calls for service (Bureau of Justice Statistics 2004). Most departments have a small number of officers who have jurisdiction over largely rural or suburban landscapes. The large municipal departments (those with at least 100 officers) employed 312,201 full-time employees, compared with 31,945 in county departments, 154,384 in sheriff's departments, and 87,028 in state law enforcement agencies (Bureau of Justice Statistics 2004).

Large local law enforcement agencies often are responsible for investigating serious violent and property crimes in their jurisdictions, compared to half of state agencies (Bureau of Justice Statistics 2000). Local agencies also are more likely to handle fingerprint processing (81 percent); however, state agencies often provide the needed support for crime lab services and ballistic testing (Bureau of Justice Statistics 2000).

The city government is usually responsible for appointing police chiefs, who are responsible for running departments with general law enforcement authority within their boundaries. Most police chiefs are appointed at the discretion of the mayor or city manager and lack contracts protecting them from unjustified termination. As a result, the average tenure of most police chiefs is only three to six years (Swanson et al. 2001).

Although for the most part similar in nature to municipal police departments, [township police departments](#) can vary greatly with regard to law enforcement powers and authority. Well-developed townships often operate with responsibilities close to those of municipal police departments. The United States has approximately 1,600 township police departments (Bureau of Justice Statistics 2004).

County Agencies

Although the primary agency at the county level is the sheriff's office, with 3,061 sheriff's departments across the country (Bureau of Justice Statistics 2006b), in some jurisdictions this office is dissolved into a county police force that functions much the same as municipal police. County police departments usually surface in areas where the workload is too large for the sheriff's department. Although their functions and structure will vary by jurisdiction, they most often assume the functions that would otherwise be the responsibility of the sheriff. In the wake of recent budget crises across the country, jurisdictions such as Camden, New Jersey, expanded county police functions to merge the fiscally strapped Camden Police Department with those of neighboring jurisdictions. The local context



greatly influences the nature and scope of responsibilities for the sheriff's department. In some jurisdictions, the sheriff's office is entirely law enforcement focused, with no other responsibilities, whereas in others the principal responsibilities involve carrying out court orders and summons or operating the county jail. The majority of sheriff's departments involve some combination of all three responsibilities (Brown 1979). In large cities with populations of over one million, the sheriff's office will only serve correctional functions; those serving very small populations usually are the chief law enforcement agents of that jurisdiction (Senna and Siegal 2001).

In all but two states, sheriffs are elected for a two- to four-year term. Because they are elected, sheriffs often have a degree of freedom from local city and county officials, unlike the relationship between the police chief and mayor or city manager in many large cities. However, because it is an elected term, additional forms of accountability and scrutiny can transform the dynamics of the role.

In some jurisdictions, there are county-level courts that maintain limited jurisdiction as described by statute in civil matters, such as the performance of marriages and hearings for minor criminal offenses. Referred to as **Justice's courts**, they are under the responsibility of **justices of the peace**, or magistrates of lesser rank than in the higher courts. It should be noted, however, that the trend has been to dissolve the Justice's courts and transfer their power to other municipal courts of limited jurisdiction (Nolan and Nolan-Haley 1990).

State Agencies

Most states have police agencies in addition to agencies within specific municipalities, townships, or counties. The first state to establish a police agency was Texas in 1835, with the creation of the Texas Rangers. Massachusetts implemented a state police agency shortly thereafter in 1865, though this is often credited as the first modern state law enforcement agency. The state agency in Pennsylvania is credited with being a model agency for other states, and is viewed as the archetype of modern policing when it was created in 1905.

The power of most state agencies includes the ability to arrest an individual for an offense committed in the presence of the officer, as well as the ability to execute a search warrant. In addition to the state police, some states have established a Highway Patrol with jurisdiction over traffic laws on interstate roads. These patrols have the authority to enforce traffic laws as well as investigate traffic accidents on highways and freeways. Hawaii is the only state without a state law enforcement agency.

Traditionally, state agencies have focused on traffic enforcement on state highways. More recently, agencies have expanded the scope of their law enforcement activities to include patrol, traffic, general policing, criminal investigations, technical services, emergency management, and antiterrorism efforts (Freilich et al. 2009; Ratcliffe and Guidetti 2008; Schafer et al. 2009). Many state agencies also provide criminal history records, crime evidence analysis, and joint operations in task forces to local and county police departments (Correia et al. 1996).

Federal Agencies

The first federal agency established by the U.S. government was the U.S. Marshall Service, which was founded in 1789. Since then, the U.S. government has created eight additional government departments with 21 agencies dealing with issues of major law enforcement. Several of these eight departments contain dozens of smaller offices and bureaus dealing with less serious law enforcement issues. It is important to note that federal agencies only have the power to enforce federal laws and mandates, and have no authority to command state and local law enforcement agencies. The U.S. attorney general, for example, cannot call a governor to dictate a certain policy on the part of the state police unless



a constitutional violation of some kind has occurred. Otherwise, the Tenth Amendment of the Constitution reserves powers over local matters to the various local law enforcement agencies. Prior to September 11, two federal departments were most involved in law enforcement: the Department of Justice (DOJ) and the Department of the Treasury. The Homeland Security Act of 2002 reorganized many federal law enforcement agencies under the new Department of Homeland Security (DHS). Presently, the DHS and the DOJ are the two most important federal departments involved with law enforcement. However, other federal departments (e.g., the Food and Drug Administration) have certain law enforcement functions within their mandates.

Department of Justice

The Department of Justice was established in June 1870 and is headed by the attorney general (AG) of the United States. As of the writing of this text, Loretta E. Lynch is the attorney general. The AG is appointed by the president and oversees legal matters involving the U.S. government. The AG is also responsible for supervising and directing the administration and operation of the offices, boards, divisions, and bureaus that make up the DOJ, as well as assisting the president, the president's cabinet, and the heads of the executive departments and agencies of the federal government in legal matters (in cooperation with the White House Counsel as necessary).

The DOJ is the federal agency responsible for conducting and coordinating investigations, both those by the DOJ as well as those being conducted by other departments. The DOJ has 39 components, and those most relevant to law enforcement are described in the following sections. The primary responsibilities of the agency are enforcing U.S. law; protecting citizens against criminals; ensuring healthy competition among business; safeguarding consumers; enforcing drug, immigration, and naturalization laws; and protecting citizens through effective law enforcement (U.S. Department of Justice 2015).

U.S. Marshal Service. The passage of the Judiciary Act in Congress in 1789 established the first formal law enforcement agency under the federal government, the office of the United States Marshal. The current structure of the **U.S. Marshal Service (USMS)** was established in 1969. It is the enforcement arm of the federal courts and is therefore involved in almost every federal law enforcement initiative. The USMS has a variety of duties, including protection of the federal judiciary, operation of the Witness Security Program, seizure of property acquired by criminals through illegal activities, the execution of warrants for the federal courts, and the handling of federal suspects and prisoners (i.e., transporting them, arresting fugitives). The USMS also responds to homeland security crises and national emergencies.

Federal Bureau of Investigation. The **Federal Bureau of Investigation (FBI)** is the main investigative agency in the federal government. It currently has over 10,000 agents. The agency was created in 1908, and by 1909 was named the Bureau of Investigation, with its present name designated by Congress in 1935. The principal responsibility of the FBI is to investigate violations of federal criminal law and to assist local agencies in investigations. The FBI has jurisdiction over particular offenses, such as kidnapping, auto theft, organized crime, civil rights violations, and internal security (espionage). It also has the authority to locate and apprehend fugitives who have violated specified federal laws.

The U.S. attorney general designated the FBI as primary agency in charge of investigating acts of domestic and international terrorism. Coordination of information exchange has become a priority given this role. **Joint Terrorism Task Forces (JTTFs)** were established in FBI field offices prior to 2001. In 1999, there were 26 JTTFs throughout the United States. As of December 2011, there were more than 100 (Bjelopera 2013). These task forces, which are located within FBI field offices, are composed of representatives of local and state law



enforcement, FBI agents, and teams from other federal agencies. A report by the RAND Corporation found that 95 percent of state law enforcement agencies had coordinated with a JTTF. However, only one-third of local law enforcement agencies had coordinated with the FBI (Riley et al. 2004).

In addition to its investigative responsibilities, the FBI also has responsibility for publishing the Uniform Crime Reports (UCRs) (U.S. annual crime statistics, discussed in Chapter 2) and the *Law Enforcement Bulletin*. It is also responsible for conducting personnel investigations (background checks) for those applying for employment within the DOJ and other government agencies, as requested.

The FBI has developed training programs for law enforcement personnel at the local, state, federal, and international levels in order to assist others in the development of new approaches and law enforcement techniques. Several departments within the FBI, such as the FBI Crime Lab, can aid in criminal investigations or provide technical assistance in mass disasters.

Drug Enforcement Administration. In an attempt to control the supply of dangerous drugs, the Harrison Narcotics Act was passed in 1917. At the time, it was established as a tax law, and as such fell under the responsibility of the Department of the Treasury. In 1930, the Treasury Department created the Bureau of Narcotics, which was reorganized in 1968 to become the Bureau of Narcotics and Dangerous Drugs under the DOJ.

The **Drug Enforcement Administration (DEA)** as we know it today was created in 1973 with the merging of the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, some U.S. Customs officials, and the Narcotics Advance Research Management Team. The DEA, which is responsible for investigating both domestic and international drug violators and traffickers, uses both control and prevention techniques to stop the flow of drugs from their manufacture through sales.

The primary responsibility of the DEA is to investigate and prepare evidence for the prosecution of major violators of controlled substances laws both domestically and internationally. It is also involved in the collection and analysis of information regarding drug use and trafficking and is responsible for developing strategic plans aimed at eliminating such activities. It has the authority to use nonenforcement methods of drug elimination, such as crop eradication, and it also has the authority to seize assets that are in any way related to drug trafficking.

U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives. The **U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)** is primarily concerned with the licensing, investigation, and control of these three commodities, as well as explosives. However, it was originally established as a tax-collecting agency, which is why it was located in the Treasury Department rather than the DOJ. On January 24, 2003, the agency was moved into DOJ as a result of the Homeland Security Act of 2002. The ATF added “explosives” to its name at this point to reflect its tremendous expertise in this area. Employees of the ATF include many forensic experts as well as law enforcement experts, including chemists, document analysts, latent print specialists, and firearms and tool mark examiners who are trained in forensic skills relating to arson, explosives, and criminal-evidence examination. The ATF works closely with the FBI in federal investigations requiring both areas of expertise. A well-known case that came to the attention of the public was the involvement of the two agencies with David Koresh’s Branch Davidian cult in Waco, Texas. It was the ATF that was originally called to the Koresh compound, beginning the standoff that led to the death of 71 individuals.

Department of Homeland Security

On July 26, 2002, the U.S. Congress approved the creation of the **Department of Homeland Security (DHS)** in the largest government reorganization of federal agencies in 50 years



(Firestone 2002). The aim of this reorganization was to better coordinate the intelligence and law enforcement resources of the U.S. government in the war on terror by attempting to eliminate the problems of linkage blindness. DHS assumed many of the law enforcement functions previously performed by the Department of the Treasury and other federal agencies. DHS's 22 domestic agencies employ about 230,000 people, making it one of the largest federal departments. DHS includes over 87,000 different governmental jurisdictions at the federal, state, and local levels, with the overall goal of developing a connected system of information exchange and law enforcement with an emphasis on combating terrorism (DHS 2007). After the formation of DHS, President Bush selected former Pennsylvania governor Tom Ridge as the first secretary of Homeland Security. At the time of this writing, the secretary of DHS is Janet Napolitano.

In addition to the 22 agencies, DHS is composed of five *directorates* and other agency components that fulfill a myriad of responsibilities. Each directorate is a large oversight body in charge of fundamental and broad elements of the department's old and newly formed federal agencies. The five directorates are (1) Preparedness, (2) Science and Technology, (3) Management, (4) Office of Policy, and (5) the Federal Emergency Management Agency (DHS 2007). Figure 1-1 ■ shows the current structure of the DHS.

Immigration and Customs Enforcement. The Department of Homeland Security reorganization effort transferred the U.S. Customs Service functions from the Department of the Treasury and the former Immigration and Naturalization Service's enforcement functions from the Department of Justice to the newly created **Immigration and Customs Enforcement (ICE)** agency. This agency is the largest investigative branch of the DHS. ICE is responsible for enforcing immigration and customs laws and protecting the United States from terrorist activity. ICE also targets gang organizations by disrupting their movement across U.S. borders. The agency seeks out illegal workers in critical areas such as power plants or airports to prevent potential terrorist activity. ICE detects and investigates fraudulent immigration documents and investigates those who produce them. ICE also investigates the illegal export of U.S. munitions and technology and cross-border human trafficking. In addition, the agency is responsible for the management of deportation and attempts to find and close illicit channels. ICE also attempts to find and close illicit channels for the movement of money by organized crime (ICE 2007).

The ICE's **Law Enforcement Support Center (LESC)** assists in the provision of information and assistance to federal, state, and local law enforcement. The primary beneficiaries of the LESC are state and local law enforcement officers seeking information about foreign nationals they encounter in their jurisdictions.

U.S. Customs and Border Protection. **U.S. Customs and Border Protection (CBP)** is a combination and unification of the former U.S. Customs Bureau,¹⁰ functions of the U.S. Immigration and Naturalization services,¹¹ the Animal and Plant Health Inspection Service, and the U.S. Border Patrol. The agency guards over 7,000 miles of land border that the U.S. shares with Canada and Mexico as well as 2,000 miles of coastal waters around California and Florida (CBP 2007a). The core functions of CBP include border security, travel and trade facilitation, and antiterrorism efforts (CBP 2010). In 2009, the agency arrested 556,000 illegal aliens and seized over 4.75 million pounds of drugs (CBP 2009). The CPB is also responsible for the inspection and collection of tariffs for over 1.7 trillion dollars worth of imported goods, including cargo moved by sea container, representing most of the material goods moved in and out of the United States (CBP 2009). The CPB shares responsibility for the security of U.S. ports with the **U.S. Coast Guard** (also under DHS) and the local or state port authority who manages or maintains the seaport, airport, or bus terminal (CBP 2007b). The CBP screens visitors by air using law enforcement databases that "verify identity, determine admissibility and prevent terrorists from entering the country" (CBP 2007a).



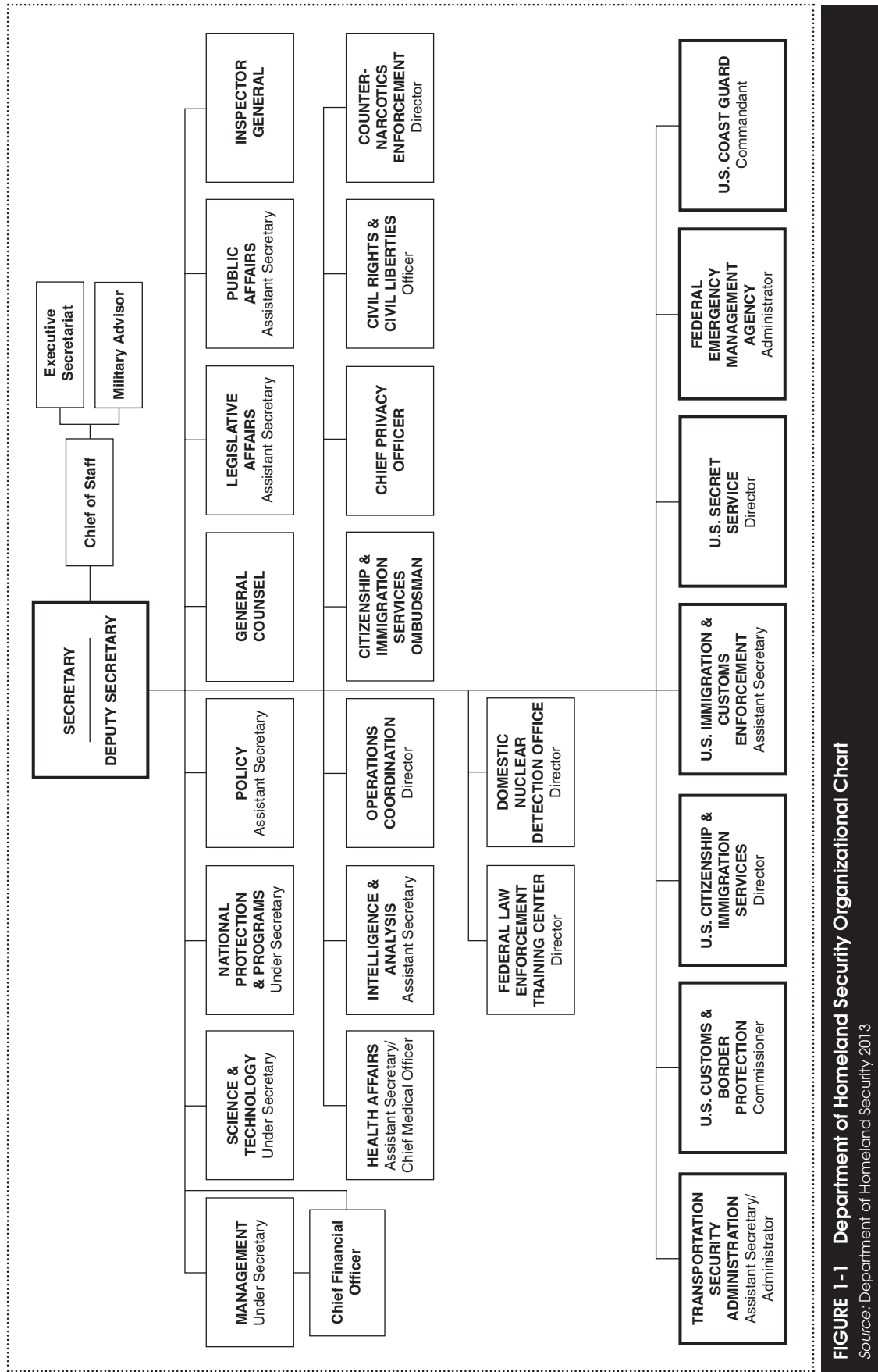


FIGURE 1-1 Department of Homeland Security Organizational Chart

Source: Department of Homeland Security 2013

Transportation Security Administration. The **Transportation Security Administration (TSA)** was transferred to DHS from the Department of Transportation, where it was placed after its creation in September of 2001. The TSA is responsible for the security of all modes of U.S. transportation. It is responsible for security officers for all commercial airports and for the screening of luggage for explosives. The primary law enforcement entity within the TSA is the **Federal Air Marshal (FAM) Service**. Several thousand Air Marshals ensure the safety of U.S. domestic and international flights. Air Marshals fly an average of 5 hours a day and 900 hours per year (TSA 2007).

U.S. Secret Service. The **U.S. Secret Service** was transferred to the DHS from the Department of the Treasury on March 1, 2003. Although the Secret Service was originally established to suppress counterfeit currency, by 1901 its duties were modified to include protecting the president, the vice president, and the families of each. Congress believed that this was necessary in light of the assassination of President William McKinley. By 1902, the Secret Service assumed full-time responsibility for protection of the president. Presidents who were elected into office prior to January 1, 1997, receive lifetime protection from the Secret Service; however, those elected after this time will receive Secret Service protection for ten years. The Secret Service is also responsible for the investigation of all access device fraud, financial institution fraud, identity theft, computer fraud, and computer-based crimes involving the U.S. financial, banking, and telecommunications infrastructure (Secret Service 2001).

Federal Law Enforcement Training Center. Another agency of the DHS is the **Federal Law Enforcement Training Center (FLETC)**. The FLETC is an interagency law enforcement training organization, serving over 80 different federal agencies. It provides training to state, local, and international law enforcement agencies. Under the direction of DHS, the FLETC trains federal officers from the Department of Justice and the DHS. It trains personnel from the following agencies: ATF, FBI, U.S. Marshals, U.S. Border Patrol, U.S. Coast Guard, U.S. Immigration and Customs Enforcement, and the U.S. Secret Service.

Additional Programs Under DHS. The **Joint Regional Information Exchange System (JRIES)** enables the exchange of law enforcement information over the Internet. Through this system, the Department of Defense has access to information pertinent to terrorist activity on U.S. citizens, resident foreigners, and others that is collected by local and state police agencies. This program was created by the **Defense Intelligence Agency (DIA)** in 2002 and then moved to the DHS in 2004. Many members of the law enforcement community sit on the executive board, including representatives from DHS and from police departments in New York City, New York state, Washington D.C., Pennsylvania, and Louisiana. Some police officials have characterized the JRIES as more effective than the local JTTFs. Some concerns have been raised by the collection of information on political, nonterrorist, groups (Rood 2004).

The **Office of State and Local Government Coordination (SLGC)** facilitates and coordinates DHS programs with state, local, and tribal governments. The program enables DHS to exchange information with state, local, and tribal homeland security personnel. The DHS identifies homeland security practices and processes at the federal, state, local, or regional levels and uses this information to ensure that opportunities for improvement in information sharing are addressed (DHS 2007).

The DHS's **Commercial Equipment Direct Assistance Program (CEDAP)** provides funding to first responders (law enforcement, fire departments, emergency medical service, emergency management, and public safety agencies) in smaller jurisdictions in the United States for equipment and training to protect their communities in the event of an emergency. CEDAP was launched in 2005 and has since provided more than \$120 million to approximately 6,800 agencies (FEMA 2008).



Department of the Treasury

The Treasury Department has traditionally had several important law enforcement functions, most of which have now been transferred to the DHS or DOJ. Now, the primary law enforcement agency of importance within the Department of the Treasury is the Internal Revenue Service (IRS).

Internal Revenue Service. The **Internal Revenue Service (IRS)** is the largest agency within the Treasury Department. Its roots date back to 1862, when President Abraham Lincoln and Congress decided to enact an income tax to pay for expenses related to the Civil War. Though the income tax was ruled unconstitutional ten years later, Congress once again enacted an income tax in 1913 after the states ratified the Sixteenth Amendment. The IRS was established in 1862 and is designed to regulate compliance with tax laws and investigate tax evasion and fraud.

The IRS has many divisions, including Appeals, Chief Counsel, Communications and Liaison, and Criminal Investigation. Though most people associate criminal investigations with the FBI, the IRS's Criminal Investigation division is responsible for, among other things, enforcing tax laws and identifying money-laundering individuals and organizations. The IRS is the primary agency responsible for enforcing the Racketeer Influenced and Corrupt Organizations (RICO) statutes. In fact, the IRS was responsible for investigating and convicting organized crime figure Al Capone.

U.S. Postal Service

In the past, the average person reading this text might have questioned why the **U.S. Postal Service (USPS)** would be included in a listing of federal law enforcement agencies. However, following the series of anthrax attacks in the United States in the fall of 2001, most would now appreciate the significance of law enforcement activities related to USPS functions. The approximately 1,500 postal inspectors stationed throughout the United States are responsible for the enforcement of over 200 federal laws affecting the U.S. mail and postal system (USPS 2010).

Postal inspectors are law enforcement officers; they can carry firearms, make arrests, and serve federal search warrants and subpoenas (USPS 2010). The Inspection Service also maintains five forensic crime laboratories stationed throughout the United States to carry out its investigative functions. Some examples of laws under Postal Service enforcement jurisdiction include:

- Assaults or robberies of postal service employees
- Bombs
- Distribution of child pornography
- Distribution of controlled substances
- Money order crimes
- Theft of mail
- Identity fraud

Tribal Agencies

At present, 564 tribal entities in 31 states are recognized by the Bureau of Indian Affairs (BIA) as Native American tribes. More tribes are located in the Southwest than any other area of the United States, and the largest of these is the Navajo Nation in Arizona. Native American tribes are unique in that they are self-governed. Although they must abide by federal regulations, they have their own sovereignty. Tribal agencies face many problems that are either more extreme or unique to tribal entities. For instance, tribes have a higher rate



of unemployment, a lower level of educational achievement, and a higher rate of suicide than states. They also have an extremely high crime rate, particularly in terms of substance abuse. Methamphetamine (meth) use is a growing threat to public safety in Indian country (BIA 2010). Because most tribes live in remote areas and are small in number, they often are required to enforce the law on their own relatives. All of these issues create challenges for tribal police agencies.

Criminal jurisdiction and law enforcement authority is dispersed among federal, state, local, and tribal agencies. Tribal officers are primarily responsible for public safety on reservations (BJS 2005). Although they provide a variety of functions and services including, crime prevention, executing arrest warrants, traffic enforcement, court security, search and rescue operations, and operating jails (BJS 2003a and 2005). Tribal officers can exercise jurisdiction over all tribal members and can detain and arrest non-Indians after which they release them to either state or federal authorities for prosecution (BJS 2005). Because tribal courts typically only hear misdemeanor cases, tribal agencies often refer cases to U.S. attorney's offices for investigation (BJS 2005). Additionally, BIA, FBI, DEA, and other federal investigative agencies can refer cases (BJS 2004a). To improve law enforcement capabilities where state and tribal lands intersect, some agencies have allowed for cross-deputization with non-tribal authorities which allow tribal officers to arrest both Indian and non-Indian offenders wherever the violation of law occurs (BJS 2005).

An additional challenge for tribal agencies is the sheer land area served. "For example, the Navajo Nation Department of Law Enforcement covers approximately 22,000 square miles in 3 states, whereas the comparably sized Reno, Nevada Police Department covers about 57.5 square miles" (BJS 2003a, p. 2). The goal of law enforcement services for Native American tribes is to provide quality investigative and police services and technical expertise specifically designed for Native American tribes. Tribally operated law enforcement programs receive assistance from the BIA's law enforcement program. The BIA aims to create a system of training for criminal investigators specific to the needs of the tribal

LINKAGES IN LAW ENFORCEMENT

AN INTRODUCTION TO THE LINKAGE-BLINDNESS PHENOMENON

One of the consequences of having a complex and interlocking system of laws and law enforcement institutions is the problem of *linkage blindness*. When different institutions operate within overlapping areas of specialization and jurisdiction, they inevitably duplicate information among themselves and become interested in the same individuals, organizations, and problems. For example, a suspect wanted by the FBI for drug offenses may also be the subject of a local police investigation for an entirely different offense. Because these two institutions may not readily share information, however, it is possible that evidence held by the FBI and crucial to the particulars of the police investigation is never made available to officers on a local level, and vice versa.

Linkage blindness arises, in part, from the failure of different institutions to recognize areas of mutual interest (Egger 1990)—they are in effect blind to the important connections between them. One of the key

challenges for law enforcement agencies in the United States in the twenty-first century is to find ways of overcoming this problem and making the best use of all available information in their efforts to reduce and prevent crime. Linkage blindness surfaced as a visible problem following the terrorist attack on the United States on September 11, 2001. Part 4 of this text will provide technological advances and strategies designed to address the problem of linkage blindness.

Questions

1. How might linkage blindness affect domestic terrorism (i.e., blowing up an abortion clinic)?
2. How might linkage blindness affect international terrorism?
3. How might linkage blindness affect the following crimes: kidnapping, distribution of child pornography, burglary?



entities, as well as an internal tracking process to monitor the efficiency of police responses to incidents on tribal land. Few monitoring systems exist to assess the quality and rate of completion of investigations, or the maintenance of a professional and cooperative working relationship with tribal and federal prosecutors and other law enforcement agencies.

A number of programs train tribal law enforcement personnel, such as the Indian Police Academy in Artesia, New Mexico. Such programs are designed to teach the basics of policing, investigative techniques, and justice administration principles to law enforcement personnel who will be working in Native American communities.

Transit Police Agencies

Approximately 130 law enforcement agencies served transportation-related jurisdictions, such as mass-transit, airports, ports, bridges, and tunnels (BJS 2007). The largest in the country is the Port Authority of New York and New Jersey, which has over 1,500 employees and services LaGuardia, Kennedy, and Newark Airports; Lincoln and Holland Tunnels; The George Washington and Staten Island Bridges; the PATH train system; the Port Authority Bus Terminal; and the Newark and Elizabeth Port Marine Terminals. Many cities with large mass-transportation systems have their own dedicated police forces, including New York City, Washington, D.C., Atlanta, Philadelphia, and Boston.

LINKAGES IN LAW ENFORCEMENT

COORDINATION AND INFORMATION SHARING BETWEEN LAW ENFORCEMENT AND THE REST OF THE CRIMINAL JUSTICE SYSTEM

Communication is an important issue within and across law enforcement jurisdictions; it is also important for the rest of the criminal justice system. Broadly speaking, the criminal justice system is a collection of agencies and institutions that enforce criminal law and work to reduce and prevent crime. In the United States, the criminal justice system consists of three main components: the police and other law enforcement agencies; the courts; and correctional services, such as prison and probation programs. Each of these institutions plays a role in the criminal justice process and has particular areas of responsibility. Together, these institutions are collectively referred to as the **criminal justice system** because they are organizationally linked and serve a common purpose. In an ideal world, all three would work in harmony, apprehending suspects, determining the guilty, and punishing offenders efficiently and in full accordance with the law. However, in practice, different organizational styles or institutional priorities can make interagency cooperation difficult. For instance, information possessed by police is not always readily available to other law enforcement agencies; correctional services may not have the resources to

implement recommendations made by the courts; and efforts to implement system-wide changes may be undermined by the desire of each branch to maintain existing working practices.

The criminal justice process, which can be broken down into a series of distinct, but interrelated, stages, begins with the initial police investigation and concludes with the end of an offender's correctional sentence. As individuals move through the process, they are gradually transformed—from suspect to defendant to offender—as the police, the courts, and correctional services each discharge their particular responsibilities. Figure 1-2 ■ outlines the formal structure of a typical state criminal justice process. In addition to demonstrating the flow of cases through the system, the chart highlights relevant issues facing law enforcement at each stage.

From Suspect to Charge: The Role of the Police

The police are responsible for investigating crime, apprehending and arresting suspects, taking them into custody, and charging them. Once a crime has

(Continued)





information about crime in the community comes from the public.

▼

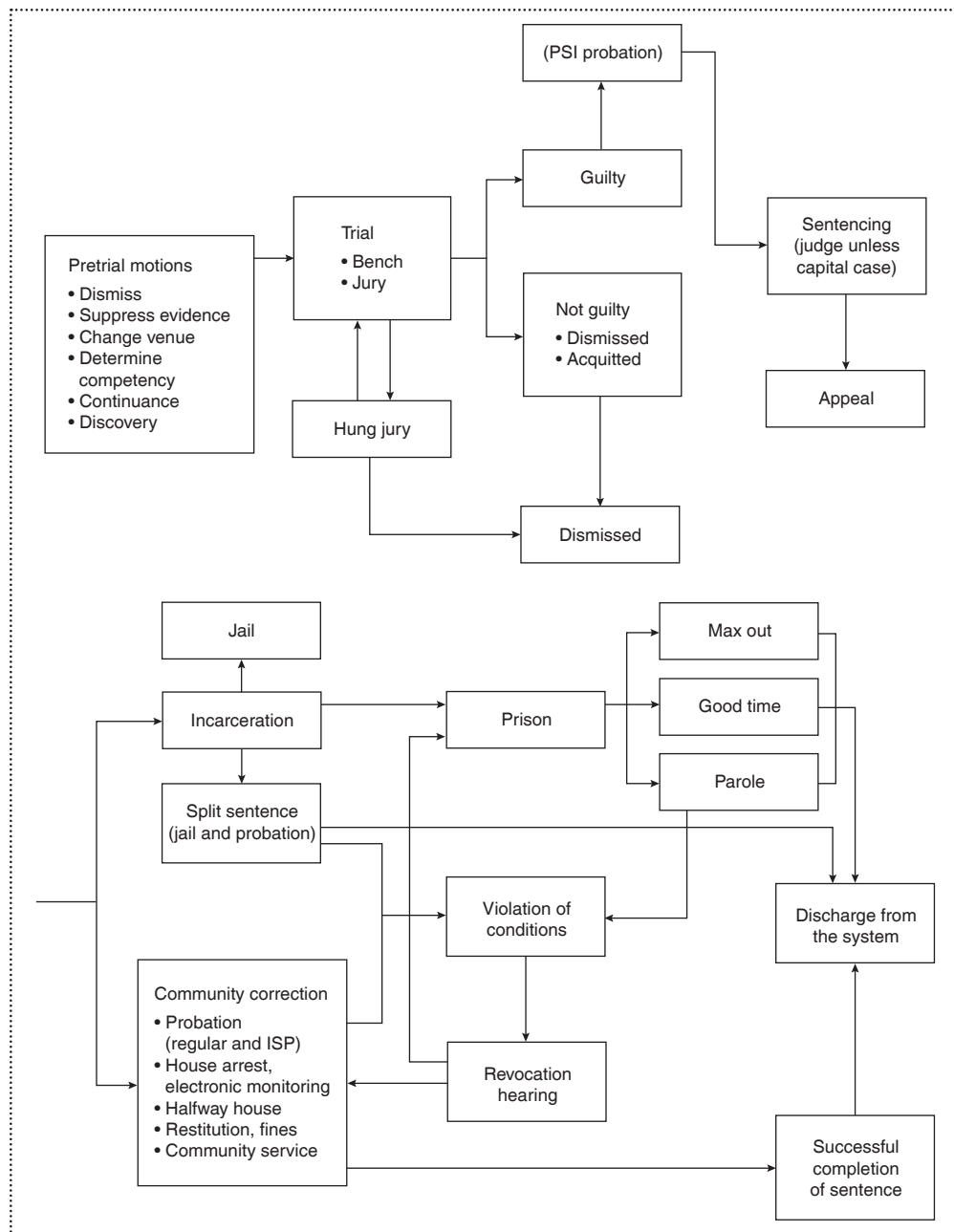


FIGURE 1-2 Continued

questioning. In those instances in which a crime is reported by a member of the public, the police may either record the report or begin a criminal investigation. The purpose of a criminal investigation is to identify those responsible for the commission of a crime and to gather evidence that proves their guilt. In most cases,

once the police have identified a likely suspect, they can either ask the person to come to the police station in order to answer questions or—when a suspect is unwilling to cooperate or is believed to be dangerous—arrest the person and hold him or her in custody while a case is prepared.

(Continued)

For an arrest to take place, the police must demonstrate **probable cause**. Probable cause exists when the police have evidence capable of convincing a reasonable person that a crime has been committed and that the person they intend to arrest is responsible for that crime. In principle, the requirement of probable cause serves to restrict the power of the police, ensuring that they do not abuse their powers of arrest. In practice, however, the need for probable cause does not always prevent the police from using arrest as a means of exercising authority over individuals and controlling suspect populations.

Once arrested, the suspect is taken into police custody, booked, and interrogated. **Booking** refers to the process of recording a suspect's entry into detention after arrest. At this time, the police record the suspect's personal details (name, birth date, address, etc.) and take his or her photograph and fingerprints. The suspect is also required to sign a form stating that his or her constitutional rights have been read and they are understood.

Prior and subsequent to arrest, the police are responsible for conducting an **investigation** to gather evidence about the crime and the suspect. This is one of the most important steps in the criminal justice system, because evidence gathered at this time is used throughout the pretrial and adjudication processes. The police often are required to conduct a search, and strict constitutional standards must be adhered to for this procedure (these standards are discussed in detail in Chapter 7). There are different types of searches; the least intrusive is a stop and frisk, where the police can pat down an individual if there is **reasonable suspicion** that the person is in possession of a weapon or is carrying drugs. Reasonable suspicion is a lower legal standard than probable cause, and probable cause is required for any full-scale search of persons, their residence, their automobile, or their personal possessions.

The Fourth Amendment is perhaps the most important safeguard of individual rights against police powers because it protects individuals from illegal searches and seizures. Several landmark cases have established safeguards for individual rights by limiting the powers of the police at this stage of the criminal justice process.

Determining Guilt: The Role of the Courts

Once the suspect has been booked and informal charges have been pressed, the police are required to bring the suspect before a court for an initial appearance. The **initial appearance** must take place within 24 hours, at

which time the defendant is informed of his or her rights by the judge and formal charges are considered. At this stage, the individual ceases to be a suspect and becomes a defendant. In addition, at the initial appearance an attorney is assigned to indigent defendants if desired or needed and a pretrial release decision is made. In deciding whether to release the defendant on bail or remand him or her in custody, the judge will typically consider such factors as the nature and seriousness of the crime, the likelihood that the defendant will voluntarily return for trial, and the safety of the general community.

After the initial appearance, formal charges are then filed against the defendant and the case is passed on to the prosecutor, who in most jurisdictions is the district attorney (DA). The prosecutor has the discretion to determine whether there is probable cause to formally charge the defendant and, if so, what the charges are going to be. If the prosecutor decides to proceed, the case will be brought before either the grand jury or the bench (in a preliminary hearing) to determine whether there are grounds for a trial. Whether there is a preliminary hearing or the case is brought before the grand jury depends on the jurisdiction and the crime committed, although both produce the same result: a formal charge against the defendant and committal for trial.

The defendant has the option of attending the preliminary hearing with counsel or waiving the hearing and allowing it to continue in the defendant's absence.¹⁴ Unlike the grand jury, the preliminary hearing is open to the public and the press, and the defendant has the right to the use of hearsay evidence. When both a grand jury and a preliminary hearing are available, the prosecutor has the discretion to decide which is more appropriate in the particular case. Generally, more serious offenses are brought before the grand jury; misdemeanors and less serious felonies tend to be brought before the bench in a preliminary hearing. In some jurisdictions, a preliminary hearing occurs prior to the grand jury proceeding. The testimony of the investigating police officer will often be crucial in this stage of the process, requiring the presence of the officer or even the subpoena of the officer's field notes.

Once there is a formal charge, the defendant enters the first stage of the adjudication process, the **arraignment**. At this stage, the formal charges against the defendant are read and the defendant enters a plea. The judge may decide to suppress evidence during **pretrial motions**, based on the way in which the police collected the evidence. This can be frustrating to the police involved in the case, and, if judges make it clear the courts are **voiding** certain



categories of arrest continually, decisions may be made to no longer enforce those specific types of offenses.

If the defendant elects to have a jury trial—which is available for more serious crimes that carry a potential sentence of six months or more imprisonment—then jurors must be selected prior to the trial.¹⁵ Defendants who choose not to exercise their Sixth Amendment right to a trial by jury can have a bench trial, the outcome of which is decided by a judge.

At the trial, it is the responsibility of the prosecutor to prove **beyond a reasonable doubt** that the defendant committed the crime in question; otherwise the defendant must be acquitted. If the prosecution can prove the case, then the accused is found guilty and the case moves on to the sentencing phase of the adjudication process. Occasionally, juries cannot come to a unanimous or a majority decision, in which case a **hung jury** is declared. In such circumstances, the prosecutor has the discretion to retry the case or dismiss it. Because trials are costly and time consuming, the majority of cases that result in a hung jury are dropped.

Although the trial is the cornerstone of the criminal justice system, the majority of criminal cases never actually come to trial. Instead, approximately 90 percent of cases are resolved through the process of plea bargaining at the arraignment stage of the process. **Plea bargains**, which are arranged between the prosecutor, defense attorney, the defendant, and the judge, are negotiations of guilty pleas in exchange for reduced charges or lenient sentences. Though the police are often opposed to plea bargaining, this is a mechanism for disposing of cases quickly and efficiently and is therefore a vital part of the criminal justice process.

Offenders who plead guilty or are found guilty at trial continue on to the sentencing phase of the adjudication process. Before making a determination of an appropriate sentence for the offender, a **presentence investigation (PSI)** is conducted by the office of probation to investigate the offender's background, which helps the judge to determine what type of sentence is appropriate, within legislated parameters.

Although the corrections stage of the criminal justice process begins after sentencing, sentencing does not necessarily mark the end of the adjudication stage. The offender can appeal either the decision of the trial court or the conditions of custody by filing a **writ**, or a formal document requesting an appeal. Although each state has a different appellate court system, most states have an intermediate appellate court and a “court of

last resort.” The highest appellate court for any case, on a state or federal basis, is the U.S. Supreme Court. Offenders can appeal to have their case reviewed by the Supreme Court by filing a **writ of certiorari**; however, the Court is very selective about the cases it reviews. Generally, only cases that raise serious constitutional or human rights issues are reviewed at this level.

Administering Punishment and Reforming the Offender: The Role of Corrections

Once a defendant has been found guilty, a variety of sentencing options are available to the courts, including the death penalty, prison, jail, split sentences, boot camp, probation, residential centers (halfway houses, furloughs), house arrest, electronic monitoring, community service, fines, and restitution. Typically, the most significant decision made by the judge during the sentencing process is whether to hand down a community sentence (usually probation) or a sentence of imprisonment. Some offenses require mandatory prison sentences, but in the vast majority of cases the judge has discretion as to the type of sentence and its length.

Offenders can be incarcerated or given a community sentence irrespective of whether they commit a felony or a misdemeanor. If incarcerated for a misdemeanor, the offender will be sentenced to a year or less in jail. **Jail** is a local county or city institution for temporary detention of persons who are awaiting indictment, arraignment, trial, or sentencing or for people serving short-term sentences for misdemeanors. Offenders incarcerated for felonies will be sentenced to **prison**, which is a state or federal correctional facility that houses offenders serving sentences of a year or more.

There are three main ways in which offenders can be released from prison. They can serve their entire sentence in prison or **max out**, at which time the state is required to release them. Offenders who abide by the prison rules and receive only positive reports from correctional services may be released prior to their maximum sentence with **good time**. Offenders in most states may also be released early with **parole**, which allows for supervision from a field agent once the offender is living in the community for the remainder of the sentence. Some states, however, have abolished parole, whereas others have abolished parole for violent offenders and **recidivist**, or repeat, offenders.

(Continued)



Alternative sanctions, also called *subincarcerative sanctions* or *community corrections*, are sentences in which the offender serves part or the entire sentence in the community (e.g., **probation**, intensive supervision probation, house arrest and electronic monitoring, and community service). All of these forms of alternative sanctions are cost-effective, help to reduce the problem of overcrowding in prison, and result in similar rates of recidivism as for offenders who were incarcerated. Some, such as intensive supervision probation (ISP), even result in lower rates of recidivism. However, there are problems with these sanctions that need to be addressed.

As technologies such as electronic monitoring become more sophisticated, so do the offenders who are supervised in such a way.

Questions

1. Where do you think linkage blindness occurs most in the criminal justice process?
2. Should information about suspects, defendants, and offenders be available to all actors in the criminal justice system? Why or why not?
3. What would help reduce linkage blindness in each part of the criminal justice system?

LINKAGES IN LAW ENFORCEMENT

SCHOOL POLICE

Unfortunately, school shootings have been an unfortunate reality in the United States for many years. Although statistically rare, the horror and level of harm from even one such event is beyond question, as the events of Newtown, Connecticut, clearly demonstrate, leading to many proposals to increase the use of school police to increase safety.

The placement of police in the schools has been used since the introduction of the school resource officer (SRO) program in the United States in 1950, and was significantly expanded throughout the 1990s as an outgrowth of community policing efforts to address a growing concern with youth violence (Weiler and Cray 2011).

Perhaps the greatest challenge in accurately understanding the effectiveness of the use of police in schools is the tremendous diversity in the types of police strategies being implemented. Four primary models for police and security in schools have been identified (Council for State Governments 2014): (1) the placement in schools of fully sworn officers with the powers of arrest, firearms carry, and other peace officer responsibilities; (2) the use of regular civilian security guards; (3) the existence of separate police departments for school districts; and (4) regular response to calls for service from local schools.

A limitation of this classification is the significant variability in the day-to-day functioning of the police depending upon the specific school context.

Often this results in an inability to report the number of police used in schools nationally, and it becomes difficult to evaluate their effectiveness without a better understanding of the context of their positions. For example, in a school lacking a formal memorandum of understanding (MOU) that defines the police role, an SRO may promote the use of punitive and zero-tolerance discipline; in another school, the SRO may be an active participant in leading positive behavior interventions with the students. In still another school, the SRO may be regularly involved with the administration in problem-solving security issues and other important challenges facing the school climate. Even within a single school, law enforcement activities can be divided equally between school patrol and proactive mentoring approaches. In this sense, the SRO can be seen as both law enforcement officer and educator, or correctional officer, depending upon the school climate and context (Brown 2006). In sum, the role of the SRO can extend far beyond the need to control violence, and thus outcome measures used for evaluation must reflect these broader possibilities (e.g., student/faculty perceptions of safety, social and emotional health, and academic success).

According to LEMAS data, the number of SROs increased between 1997 and 2003, before decreasing slightly in 2007 (James and McCallion 2013). In 2007, 385 local law enforcement agencies reported using SROs, down from a peak of 44 percent in 2000 (Ibid.).

As of 2008, there were an estimated 250 school police agencies operating under the authority of school districts (Reaves 2011). Unfortunately, LEMAS statistics fail to offer any meaningful understanding of the specific and diverse roles of SROs mostly in use within the schools, and the broader importance of them outside of the immediate concerns of crime and violence.

Despite the fairly significant use of school police nationally,¹² and the federal government's encouragement of their expansion through programs such as the COPS in Schools (CIS) program and the State Formula Grants program through the Safe and Drug Free Communities Act, to date, evidence remains mixed regarding the effectiveness of SROs.

In a review of the literature, Jackson (2002) notes that some SRO programs led to an improvement in safety (reductions in crime), while others show no change. Some of these inconclusive results may be the result of an inability of the research designs to account for the large variation in the specifics of the model implemented or the unique nature of the school context itself. There is a growing consensus among school safety experts about the need to document the contexts of school violence in order to select/evaluate adequate school safety strategies and/or truly understand the root causes of school violence (Astor et al. 1999). Few academics and practitioners have adequately considered aggression and violence in *the total school context* of family and community factors, social dynamics of students, teachers, and staff on the school grounds, walking routes to and from schools, and so on (Jimerson and Furlong 2006). "Combinations of social exclusion, sexual harassment, weapon carrying, gang activity, bomb threats, or bullying may require different interventions if they occur alone on a campus or if they cluster in subgroups" (Astor et al. 1999 p. 70). Failure to consider the entire school context may result in the implementation of insufficient school safety strategies and/or an inability

to understand why a given school safety strategy (e.g., SRO placement) does or does not work effectively.¹³ Despite this, many school districts use one program for the entire district or pay little attention to how the many programs they do select are implemented (Ibid).

Many evaluations of SRO programs also fail to utilize both a treatment and control/comparison period per the very basic standards of sound evaluation research (Police Officers in Schools: Effects on School Crime and the Processing of Offender Behaviors). A National Institute of Justice (NIJ) review of several SRO programs (Finn and McDevitt 2005) also concluded that little is known about the effectiveness of SRO models because few programs use any evaluation designs or measures with adequate reliability and validity.

Due to all of the above considerations, many school administrators find it difficult to decide whether or not to use an SRO model, or which type/combination of strategies is the best fit for their jurisdiction. A final point of critical consideration in reviewing the SRO evaluation literature is the recognition that the specific school safety outcome measure selected is of central importance. Outcome measures cannot be dependent on the SRO itself and still be a valid pre/post-measure (e.g., arrests or tickets by an SRO officer). Alternatively, other more creative measures could be important such as student perceptions of safety at school and the possible linkages between school climate and social-emotional health and/or academic success. Including a wider array of relevant variables in SRO program evaluations can significantly inform knowledge of what does and does not work.

Evaluations must also consider the possibility that SRO models might lead to greater involvement of youth in the criminal justice system or the school to prison pipeline.

Chapter Summary

- The concept of linkage blindness is a central theme throughout the book. *Linkage blindness* refers to the lack of communication between different agencies or even within agencies. The terrorist attacks on September 11 were largely a result of linkage blindness; various law enforcement agencies or divisions of agencies had information on the

known terrorists, but they did not share the information with the correct sources.

- The primary duty of the police is to maintain social control within the community. What distinguishes the police from other individuals is their ability to use coercive force if necessary to control a situation.



- *Discretion*, which is the freedom for an individual to make a decision based on his or her personal judgment, is a necessary aspect of policing. Although police officers must respond to situations within the parameter of the law, they should have the freedom to make a decision based upon the circumstances of a particular case. Also, it is impossible for an officer to respond to every violation of the law; therefore, discretion is a necessary component of law enforcement.
- The *rule of law* refers to the ideal that equality and justice are inseparable and that laws are applied equally to everyone. It is a standard that is used to guide decision making throughout the criminal justice system.
- The degree to which police actions are seen as fair and just establishes the legitimacy of police in the eyes of citizens; police legitimacy is a part of the legal context that can itself influence the compliance behavior of citizens.
- All of the agencies within the criminal justice system are interlocked and must work together to ensure justice. The three components of the criminal justice system are the police, the courts, and corrections. The police are the first agents within the criminal justice process. Once a crime occurs, the

police are in charge of taking a report, investigating the crime, arresting a suspect, and booking the suspect. The methods by which the police investigate crimes will have an impact on whether and how the case proceeds through the criminal justice system and often whether there is a conviction in the case.

- The crime control model emphasizes the support for law enforcement over individual rights. Advocates of this approach emphasize extensive police powers, limited rights for suspects, and a quick and speedy process. The due process model emphasizes individual rights with restrictions on police power. It focuses on civil liberties and the quality of arrests over the quantity of arrests.
- The six levels of law enforcement are federal, state, county, municipal, township, and tribal. The largest is municipal, with nearly 13,000 municipal jurisdictions.
- In the aftermath of the terrorist attacks on September 11, 2001, the federal government restructured many agencies so that they could better coordinate intelligence and law enforcement resources in the war on terrorism. This reorganization resulted in the formation of the Department of Homeland Security and a restructuring of the agencies within the Department of Justice and the Department of the Treasury.

Linking the Dots

1. What are the benefits of the government's reorganization of departmental agencies within the Department of Justice, the Department of Homeland Security, and the Department of the Treasury? Are there any drawbacks?
2. Should the police be bound by due process constraints when investigating terrorism?
3. What role does the police ability to use force play in their interactions with the community?
4. Do the police curtail their discretion according to the ideal of the rule of law? Explain.
5. How might information sharing be enhanced within and across law enforcement jurisdictions? With the rest of the criminal justice system?

Key Terms

Alternative sanction 22

Arraignment 20

Arrest 18

Beyond a reasonable doubt 21

Booking 20

Coercive force 3

Commercial Equipment Direct Assistance Program (CEDAP) 14

Crime control 6

Criminal justice system 17

Culture of lawfulness 4

Defense Intelligence Agency (DIA) 14

Department of Homeland Security (DHS) 11

Deviance 3

Discretion 5

Drug Enforcement Administration (DEA) 11

Due process 6

Extra-legal factors 5

Federal Air Marshal (FAM) Service 14

Federal Bureau of Investigation (FBI) 10

Federal Law Enforcement Training Center (FLETC) 14

Formal social control 3

Good time 21

Homeland Security Act of 2002 2

Hung jury 21



Immigration and Customs Enforcement (ICE) 12	Linkage blindness 2	Township police departments 8
Informal social control 3	Max out 21	Transportation Security Administration (TSA) 14
Initial appearance 20	Office of State and Local Government Coordination (SLGC) 14	U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF) 11
Internal Revenue Service (IRS) 15	Parole 21	U.S. Coast Guard 12
Investigation 20	PATRIOT Sunsets Extension Act of 2011 2	U.S. Customs and Border Protection (CBP) 12
Jail 21	Plea bargain 21	U.S. Marshal Service (USMS) 10
Joint Regional Information Exchange System (JRIES) 14	Presentence investigation (PSI) 21	U.S. Postal Service 15
Joint Terrorism Task Forces (JTTFs) 10	Pretrial motions 20	U.S. Secret Service 14
Jurisdiction 8	Prison 21	USA Freedom Act of 2015 2
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Law Enforcement Support Center (LESC) 12	Reasonable suspicion 20	Writ 21
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Notes

1. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (Public Law 107–56).
2. Although this quote is useful in illustrating the concept of linkage blindness, it should be noted that there have been changes in the structure of governmental agencies since the time that Flynn made this statement.
3. *Escobedo v. Illinois*, 378 U.S. 478 (1964).
4. *Miranda v. Arizona*, 384 U.S. 436 (1966).
5. *Terry v. Ohio*, 392 U.S. 1 (1968).
6. *Gideon v. Wainwright*, 372 U.S. 335 (1963).
7. The case of Rodney King is an example of this. This incident involved the beating of a black man by four white officers after a car chase. It would not have come to the attention of the public had a citizen not been videotaping the incident.
8. An example of this is the Rampart CRASH officers scandal in the Los Angeles Police Department, which involved a number of officers engaging in criminal misconduct, including working off-duty for Death Row Records, robbing banks, stealing cocaine, falsifying testimony, and beating suspects. At the height of the scandal, two officers shot, framed, and testified against a known gang member. The gang member was rendered paralyzed from the shooting.
9. An example of this is the investigation of New Jersey State Troopers, sparked by an incident in 1998 where two state troopers stopped a van of African American men on the New Jersey Turnpike. During the stop, the van began rolling backwards. The state troopers thought that the driver was trying to run them over, so they began shooting the passengers. Three of the men were wounded. This incident led to a full investigation of state troopers in New Jersey, and a board found that the troopers regularly practiced racial profiling in their stops.
10. The Bureau of Customs was created as a response to the need for revenue shortly after the United States declared independence and was nearly bankrupt. It was established after the passage of the Tariff Act of 1789, which authorized the collection of duties on imported goods. The primary duty of Customs was to ensure that all imports and exports complied with U.S. laws and regulations. It collected and protected the revenue, guarded against smuggling, and was responsible for investigation of these activities. It had the authority to interdict and seize contraband, detect and apprehend any person who circumvented Customs and related laws, and protect intellectual property rights.
11. The Bureau of Immigration was first established in 1891 within the Treasury Department, but by 1903 it was transferred to the Department of Commerce and Labor. In 1906, this organization became known as the Immigration and Naturalization Service (INS), which was transferred to the Department of Justice in 1940. The primary responsibility of the INS was to determine the admissibility of persons seeking entry into the country, ensure appropriate documentation at entry, and control the status of aliens in the country during their stay. It was also responsible for accepting and processing applications from any person petitioning for naturalization or citizenship. The INS worked to both control and reprimand those who were in the country illegally and prevent future acts of illegal entry.
12. The National Association of School Resource Officers (NASRO) estimates that there are 14,000 school police officers in the United States today.
13. Along with the other “Big Four” risk factors: history of antisocial behavior, antisocial personality pattern, antisocial cognition, and antisocial associates.
14. *Coleman v. Alabama*, 389 U.S. 22 (1967).
15. In most jurisdictions, defendants charged with serious offenses can choose between a jury trial and a bench trial, though some states require that all defendants who can receive six months or more imprisonment are subject to a jury trial.





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2 Origins and Development of Law Enforcement

LEARNING OBJECTIVES

- 1 Explain the origins and meaning of social control.
- 2 Trace the development of informal policing in England and the United States.
- 3 Analyze the impact of the London Metropolitan Police.
- 4 Explain regional differences in the development of law enforcement, such as slave patrols and Jim Crow laws.
- 5 Identify Kelling and Moore's eras of policing and describe key events in the Political Era.
- 6 Discuss key elements of the Reform Era, including its origin, types of reforms, and the individuals responsible for implementing the reforms.
- 7 Discuss policing as a profession.



- 8 Explain the effect of the Reform Era on crime rates, resource deployments, and police–community relations.
- 9 Describe the UCR, analyze its limitations, and identify other instruments for counting crime.
- 10 Compare the UCR and NIBRS in terms of similarities, differences, and effectiveness.
- 11 Evaluate the effectiveness of the traditional model of policing that emerged from the Reform Era.

► Introduction

Happily for English liberty there has never existed in this country any police force at the disposal of the central government, powerful enough to coerce the nation at large. Our national police have always been of the people and for the people [London, 1901] (Lee 1901, quoted in Reiner 1994, p. 61).

After the classical precipitating incident of a fatal fight between a black civilian and a white policeman, rampaging crowds moved up and down Eighth and Ninth avenues beating Negroes. Policemen swarmed over the area, cracking the heads of Negroes and doing nothing to restrain the Irish mob. That the Negroes were bitter is hardly surprising seeing that the police not only did not protect them, did not arrest any of the whites involved, but also indulged in gratuitous clubbing [New York City, 1901] (quoted in Silver 1984).

These two quotes, made the same year in London and New York, highlight the importance of political and cultural contexts in the development of law enforcement. Although New York City set out to replicate the English model of policing, the realities of implementation were far different. Political challenges, including the United State’s recent history of slavery, played a significant role in the development and character of its early policing systems.

This chapter examines how formal systems of policing have developed throughout the centuries. Although any society governed by law must at some point address the question of how best to enforce those laws, the idea that law enforcement should be the responsibility of a permanent, professional police force is a modern one.

Up until the last 200 years, most societies relied on individual citizens and communities to ensure that laws were upheld and criminals apprehended. With the arrival of the Industrial Revolution and rising levels of poverty, crime, and public disorder, however, governments in Europe and elsewhere were forced to develop new and more effective ways of enforcing the law and maintaining order. First in Britain and then the United States, law enforcement eventually passed out of the hands of the ordinary citizen and became the direct responsibility of professional law enforcers: the police.

This chapter traces the historical development of law enforcement and the emergence of the modern, professional police force and examines how the idea of “policing” has changed from ancient times to the present. Despite the fact that the modern police officer faces challenges that are very different from those that confronted local sheriffs in feudal England or the Bow Street Runners in eighteenth-century London, much contemporary thinking about law enforcement is rooted in traditions that have changed little over time. Understanding how different societies have, throughout history, sought to combat crime and enforce the law is an important step toward understanding many of the key issues that now face police forces in the twenty-first century.



► Early Origins of Social Control

Any society, if it wishes to survive, needs to develop some system of ensuring that the norms and values of that society are upheld and that members of the community can live free from harm. Prior to the emergence of formal governments and states, early societies were regulated by systems of informal rules and traditions that dictated how members of the society should behave and how conflicts should be resolved. In prehistoric societies, these rules were quite basic and aimed to ensure that everyone worked together for the survival of the group. Acts such as stealing and murder were prohibited because they created division and distrust and led to conflicts that could threaten the welfare of the community as a whole. Within these early societies, justice was typically an individual matter. The victim of a wrong was responsible for punishing the alleged wrongdoer. Punishment, usually based on the simple notion of an “eye for an eye” (*lex talionis*), was meted out by the victim or the victim’s family, with the result that justice was frequently swift, bloody, and final.

As societies became more complex and systems of law emerged, however, these informal methods of social control gave way to more organized systems of law enforcement. In addition to setting out the law to be followed by all citizens, some of the original systems of law also prescribed specific penalties for particular types of wrong. One of the earliest known systems, the *Code of Hammurabi* (2200 BC), originated in the kingdom of Babylon in Mesopotamia (the geographic area that is now Iraq). Although in this system individuals remained responsible for ensuring that the law was followed, under the Code of Hammurabi they were not permitted to impose their own punishments. The Code of Hammurabi made the enforcement of law more consistent and established a clear relationship between the type of crime committed and the punishment that could be expected.

Centuries later, the city fathers of Rome established an early system of military policing by assigning responsibility for protecting the emperor’s palace and patrolling the city to the Praetorian Guard and the Urban Cohort. It is Emperor Augustus, however, who is most frequently credited with establishing the first civilian police force—known as the *vigiles*—shortly before the birth of Christ. Drawn from the general citizenry of Rome, the *vigiles* were originally intended to serve as firefighters, but soon took on the role of law enforcers as well. Unlike the Praetorian Guard or the Urban Cohort, the *vigiles* were given general powers to keep the peace and investigate crime. They patrolled the streets of Rome dressed in ordinary clothes, keeping a watch over the general public. Renowned for their ruthlessness and for handing down severe punishments, the *vigiles* soon became despised by the people and were regarded by many as no better than state-sponsored spies and informants. Although the system of *vigiles* eventually came to an end with the fall of Rome, the word *vigilante*—a person who takes the law into his or her own hands—finds its origin in this early form of community policing. These informal styles of law enforcement soon found their way into England, which was under Roman rule during the time of Augustus, and similar systems were established in place of more traditional, tribal forms of social control.

It should be noted that throughout the ancient world there was considerable resistance to the idea of organized enforcement of laws. In Egypt, where soldiers and temple officials were responsible for enforcing the law, these early enforcement officers of the aristocracy were seen by many as simple servants of the pharaoh and other members of the ruling elite, concerned only with protecting the property of the wealthy. In Greece, the philosopher Aristotle (384–322 BC) maintained that the existence of a permanent police force was contrary to the very idea of democracy, arguing that the people should be directly responsible for enforcing their own laws. Interestingly, this same argument was raised again some 2,000 years later in England by those concerned about the plans for the establishment of the first modern police force. While many centuries had passed since the time of the ancient Greeks and Romans, the people of London nevertheless found themselves confronted with the questions about who should be responsible for enforcing the law: the police or the people themselves?



► Development of Formal Policing in England

Following the fall of Rome and end of the Roman occupation of Britain, traditional forms of law enforcement based on individual and tribal justice reemerged throughout England. As in ancient times, each community adhered to its own rules and punishments, leaving law enforcement in the hands of the individual. As the Dark Ages progressed, powerful landholders and rulers began to assert themselves and establish a hold over large areas of the country. Victims and their families, however, remained responsible for pursuing and punishing perpetrators within their communities. As a consequence, the administration of justice and punishment was inconsistent and there was no organized system of policing.

Punishments during this time were typically severe, frequently resulting in the death of the offender. In cases where the truth of the accusation was disputed, the accused was given the opportunity to prove his or her innocence by undergoing some form of predetermined ordeal or trial. Ironically, the process of proving one's innocence could often be as painful as the punishment that accompanied a finding of guilt.

From Tithings to Posse Comitatus

Toward the end of the Dark Ages, the gradual merging of Roman, Germanic, and Anglo-Saxon traditions and the emergence of the monarchy gave rise to the general acceptance of two ideas that were to provide the basis for a more unified and consistent approach to law enforcement. The first of these was the concept of the “king’s peace,” which held that any crime against an individual was also a crime against the king. This meant that the crown could claim to have a legitimate interest in the enforcement of the law, even if no offence had been directly committed against the king or his agents.

The second idea was the notion that all of the king’s subjects were also his property. Accordingly, anyone who caused harm to any citizen was potentially liable to pay compensation to the crown. These two ideas provided the basis for the legal principle that a criminal act represented a crime against the state as well as the individual and that the state had a direct interest in ensuring that the laws were upheld and enforced. This principle remains at the heart of criminal law in both England and the United States and provides the basic justification for the existence of the police in both countries. Although the law continued to be enforced according to local tradition, the end of the Dark Ages opened the way for a more centralized approach to the problem of law enforcement.

By the middle of the ninth century, the majority of the English population lived in established towns and cities, each with its own system of rules and organization. During the reign of Alfred the Great (849–899 AD), however, a new system of social organization was imposed. In an effort to make the collection of taxes and the maintenance of the king’s peace easier, Alfred divided England into regions known as **shires**. Each shire, which was similar to the American county, consisted of geographic units known as “hundreds”—so named because each contained 100 families. Each of the hundreds was composed of ten **tithings**, and a tithing consisted of ten families. Under this new arrangement, every citizen was tied to a particular tithe and was jointly responsible with all other members of his or her group for the payment of taxes and the maintenance of order (Stead 1985). As a result, a crime committed by one person was held to be a crime committed by his or her entire community, with the punishment to be borne by the group as a whole. In essence, Alfred’s aim was to make communities self-regulating when it came to the payment of taxes and the enforcement of law. **Shire reeves**, precursors to modern-day sheriffs, were the leaders of the shires and were appointed by the king.



They were given the task of ensuring that law and order was maintained throughout their region. Drawing on the assistance of locally elected **constables**, shire reeves frequently organized villagers and other members of the community into **posses** that would track down and apprehend offenders.

Although by modern standards the system of policing established by Alfred the Great might appear to be crude, the introduction of shire reeves and local constables revolutionized the way in which laws were enforced throughout medieval England. In the space of a few decades, the administration of justice was taken out of the hands of individuals and made the responsibility of particular communities and their appointed leaders. Law enforcement ceased to be a private matter and became associated with the king and his agents.

In 1285, this system was formalized by the Statute of Winchester, which increased the power of the constables and made them responsible for organizing local watchers (Stubbs 1870). In addition, under the statute all men between the ages of 15 and 60 were required to bear arms in defense of the crown and the king's peace and to assist their local constable in the pursuit of offenders. Failure to heed the constable's call for help—known as the **hue and cry**—was a punishable offense under the new law, and anyone who did not help to apprehend criminals risked being tried with them as associates.

It was also around this time that the first justices of the peace began to emerge, who acted as judges and presided over local trials. Typically country gentlemen and members of the aristocracy, these justices were central to the administration of justice throughout the shires, and, like the constables, were also entrusted with the task of keeping the king's peace.

This system of justices and constables was to change little over the next 400 years in England. Although the criminal law expanded considerably during this time, law enforcement remained the responsibility of local officials answerable to the king. By the eighteenth century, however, the system had begun to fail. In many regions, justices and constables had become corrupt and unaccountable, frequently using their considerable powers to enhance their own positions and wealth. More importantly, the steady processes of industrialization and urbanization had also made local peacekeeping more and more difficult. As the population grew, informal methods of policing based on collective responsibility and local ties became unwieldy and ineffective. Lawlessness and disorder became more widespread, with many members of the upper class employing guards to protect them and their property from attack. Faced with the possibility of anarchy, it became clear that something had to be done.

After various efforts failed to rejuvenate the existing system of constables, the government eventually granted the London magistrate, Henry Fielding, permission to found a group of organized law enforcement agents. Known as the **Bow Street Runners**, these men were given the task of apprehending criminals and recovering stolen goods within London. They were paid, in part, out of city funds. Because they also had the duty to solve crimes, the runners were essentially the first paid detectives (Howe 1965). They failed to stem the rising tide of crime in the city, however, and they were eventually disbanded some years later. The runners did enjoy a limited degree of success. Many individuals were impressed by their organization and effectiveness, and they had the reputation of being incorruptible and determined (Howe 1965). They were not, however, immune to issues of corruption and abuse. Despite this, the idea of maintaining a permanent, salaried police force began to gain wider acceptance.

Another driving force behind the push for the foundation of a professional police force was the public outrage following the **Peterloo massacre of 1819**, in which a political protest turned riotous after the military was brought in to break it up. This incident left 11 dead and hundreds injured, as well as creating a lingering fear in the minds of many of the



dangers of relying on the military to handle public order. In the United States, the [Posse Comitatus Act](#) (18 U.S. Code, Section 1385) was signed in 1878 to separate military functions from local law enforcement. The original intent of this act was to prohibit the use of federal troops in the policing of state elections; however, in effect, it also prohibits the military from serving as a domestic police force. The act bans the army, navy, air force, and marines from participating in arrests, evidence search and seizure, or any other conventional policing activity on U.S. soil.

The Formal System of Policing

The term *police* entered into the English language in the mid-fifteenth century from the middle-French word *porice*, meaning “public order assured by the state” (Oxford English Dictionary 1996). The modern usage of *police* as “the civil force responsible for maintaining public order and enforcing the law” came into recorded usage in the English language in 1798, when the Marine Police were established to protect merchant shipping on the River Thames in London. The law enforcement entity established in London in 1828 was sometimes called the New Police (Oxford English Dictionary 1996).

By the early 1800s, London had over 450 paid police officers working throughout the city. Despite this, there was still no centrally organized system of law enforcement. In 1828, however, the home secretary [Sir Robert Peel](#) set about establishing what was later to be called the London Metropolitan Police. Having served in Ireland for many years and successfully organized the Royal Irish Constabulary, Peel was keen to reform the way in which the law was enforced in England and create a new police force for the city of London. Parliament was initially resistant to Peel’s ideas, largely because they feared the introduction of a military-style force along French lines. They eventually passed the [London Metropolitan Police Act](#) in 1829, providing funds for the establishment of a 1,000-officer force governed by strict standards of conduct and discipline. Early developments in policing through the creation of the Metropolitan Police are outlined in Table 2-1 ■.

Initially under the command of two magistrates (who later became known as *commissioners*), this new Metropolitan Police force differed markedly from previous efforts at law enforcement in England. Most important, the officers were organized along military lines and subject to clear chains of command and rules of conduct. To encourage accountability and professionalism, officers were required to wear uniforms, making them easily identifiable in public, and to carry badges with their identification number inscribed upon it. In addition, officers were direct employees of the state, as opposed to being private citizens charged by law to assist in the apprehension of offenders. In these respects, Peel’s Metropolitan Police were the first modern police force. Indeed, many forces around the

TABLE 2-1 Key Dates in the History of Law Enforcement

2200 BC	Code of Hammurabi standardizes laws and punishments in Babylon.
1340 BC	Nile River Police established in Egypt.
510 BC	Romans establish the Praetorian Guard and Urban Cohort.
27 BC	Roman system of <i>vigiles</i> instituted by Augustus.
400-800	Law enforcement in England based on traditional notions of individual justice and punishment.
899	System of shires, hundreds, and tithes established by Alfred the Great.
1285	Statute of Winchester establishes the watch-and-ward system in England.
1326	Justices of the Peace first appointed by the king in England.
1748	Formation of the Bow Street Runners in London.
1829	Creation of the London Metropolitan Police.



TABLE 2-2 Sir Robert Peel's Principles of Policing (1829)

1. The police must be stable, efficient, and organized along military lines.
2. The police must be under government control.
3. The absence of crime will best prove the efficiency of the police.
4. The distribution of crime news is essential.
5. The deployment of police strength both by time and area is essential.
6. No quality is more indispensable to a policeman than a perfect command of temper; a quiet determined manner has more effect than violent action.
7. Good appearance commands respect.
8. The securing and training of proper persons is at the root of efficiency.
9. Public security demands that every police officer be given a number.
10. Police headquarters should be centrally located and easily accessible to the people.
11. Policemen should be hired on a probationary basis.
12. Police records are necessary to the correct distribution of police strength.

world continue to be organized around the same basic rules and principles contained in Peel's **Principles of Policing** (reproduced in Table 2-2 ■).

Initially, British citizens did not embrace the concept of a formal governmental police force. They feared that the police would be a pawn of the government and act as an occupying army in their towns. However, the sentiment toward the police changed in 1833 with the riots in Cold Bath Fields. One riot resulted in the death of Police Constable Culley, and at trial a jury returned a verdict of justifiable homicide for his killer.¹ After a newspaper account published the story of the officer's widow, citizens began to show public support for the police and their efforts to stem crime in the city.

After witnessing the effectiveness of the London Metropolitan Police, similar professional forces were established throughout England by 1856. As the recruitment and training methods developed by Peel spread, interest in crime prevention grew and the idea of local "policemen"—called **bobbies** after their founder—as the central law enforcement figures in the community gained wide acceptance.²

► Development of Formal Policing in the United States

During the early years of colonization, law enforcement in America developed along English lines. Towns and villages appointed constables and sheriffs with powers very similar to their English counterparts. Additionally, they organized watch systems that were an adaptation of those that had existed for centuries in England. As time went on, and as English policing became increasingly centralized, its development began to deviate from the pattern that was being established in the United States. There, following law enforcement traditions brought with them from Europe, citizens were made responsible for helping to maintain peace, and although in larger towns, such as Boston and Philadelphia, laws were passed requiring the public to help officials in the apprehension of criminals, victims of crime could not always rely on the authorities or the community to bring criminals to justice.

Early Watch Systems

As in England, the first system of policing in the United States was an informal one where individuals within a community protected each other. This informal system consisted of numerous positions, including a justice of the peace, a sheriff, constables, and a night watch.

