

*Introduction to*

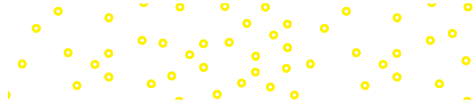
# CRIMINAL JUSTICE

**Robert M. Bohm**  
**Keith N. Haley**

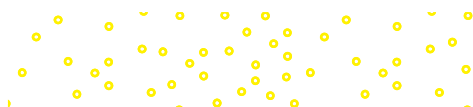


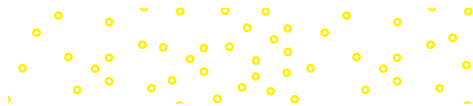
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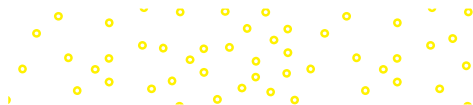


# INTRODUCTION TO **Criminal Justice**





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# INTRODUCTION TO **Criminal Justice**

Tenth Edition

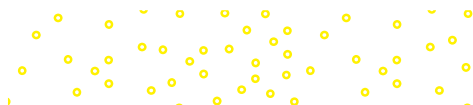
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## INTRODUCTION TO CRIMINAL JUSTICE, TENTH EDITION

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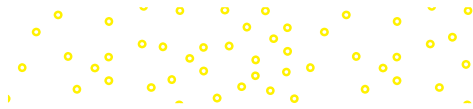
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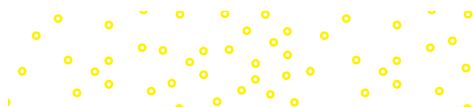
## DEDICATION

To my wife, Linda Taconis, with love.

**Robert M. Bohm**

To my wife, Shelby, and daughter, Jill, with love.

**Keith N. Haley**





## About the Authors

**Robert M. Bohm** is Professor Emeritus of Criminal Justice at the University of Central Florida. He also has been a faculty member in the Departments of Criminal Justice at the University of North Carolina at Charlotte (1989–1995) and at Jacksonville State University in Alabama (1979–1989). In 1973 and 1974, he worked for the Jackson County Department of Corrections in Kansas City, Missouri, first as a corrections officer and later as an instructor/counselor in the Model Inmate Employment Program, a Law Enforcement Assistance Administration sponsored-work-release project. He received his PhD in criminology from Florida State University in 1980. He has published numerous journal articles, book chapters, and books in the areas of criminal justice and criminology. In addition to being the co-author of *Introduction to Criminal Justice*, 10th ed. (McGraw-Hill), he is the author of *A Concise Introduction to Criminal Justice* (McGraw-Hill, 2008); *Deathquest: An Introduction to the Theory and Practice of Capital Punishment in the United States*, 5th ed.; *Ultimate Sanction: Understanding the Death Penalty Through Its Many Voices and Many Sides*; *The Past as Prologue: The Supreme Court's Pre-Modern Death Penalty Jurisprudence and Its Influence on the Supreme Court's Modern Death Penalty Decisions*; *Capital Punishment's Collateral Damage*; and *A Primer on Crime and Delinquency Theory*, 4th ed. (with Brenda L. Vogel). He is also editor of *The Death Penalty in America: Current Research* and *The Death Penalty Today* and co-editor (with James R. Acker and Charles S. Lanier) of *America's Experiment with Capital Punishment: Reflections on the Past, Present, and Future of the Ultimate Sanction*, 3rd ed., *Demystifying Crime and Criminal Justice*, 2nd ed. (with Jeffery T. Walker), and the *Routledge Handbook of Capital Punishment* (with Gavin M. Lee). Bohm served as president of the Academy of Criminal Justice Sciences in 1992–1993. In 1989, the Southern Criminal Justice Association selected him Outstanding Educator of the Year. In 1999, he was elected a Fellow of the Academy of Criminal Justice Sciences; in 2001, he was presented with the Academy's Founder's Award; and, in 2008, he received the Academy's Bruce Smith Sr. Award.

**Keith N. Haley** is Professor Emeritus of Criminal Justice in the School of Criminal Justice and Social Sciences at Tiffin University. He also has been Chair of Criminal Justice and Social Science Graduate Programs, Dean of the School of Criminal Justice, Chair of the Criminal Justice Department, Dean and Associate Vice President of the School of Off-Campus Learning, Associate Vice President for Special Projects, and has acted as the primary contact for the Tiffin University MBA program in Bucharest, Romania. He also has served as Coordinator of the Criminal Justice Programs at Collin County Community College in Texas; Director of the Criminal Justice Program at Redlands Community College in Oklahoma; Chair of the Criminal Justice Department at the University of Cincinnati; Executive Director of the Ohio Peace Officer Training Commission; and police officer in Dayton, Ohio. Haley received a bachelor of science degree in education from Wright State University and a master of science degree in criminal justice from Michigan State University. Haley is the author, co-author, and/or editor of 30 books (including revised editions), several book chapters, and many articles in criminal justice publications. He has served as a consultant to many public service, university, business, and industrial organizations on management, online learning, criminal justice research, and memory skills. The American Association of University Administrators presented the 2001 Nikolai N. Khaladjan International Award for Innovation in Higher Education to Haley for his leadership in the Tiffin University/University of Bucharest "Partnership for Justice" project, which established a graduate school of criminal justice administration at the University of Bucharest. Bohm and Haley's *Introduction to Criminal Justice* was translated into the Romanian language under the title of *Justitia Penala* and has been used in the University of Bucharest graduate program for criminal justice leaders.



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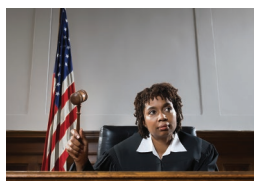


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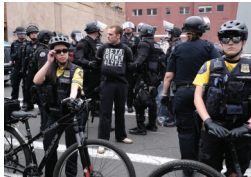
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We are convinced that a good education in criminal justice—and in liberal arts generally—can improve significantly the performance of most criminal justice personnel by equipping them, as this text does, to think critically, act ethically, and solve problems effectively. *Introduction to Criminal Justice*, Tenth Edition, is not just for students interested in pursuing a career in criminal justice, however. It also is for students who simply want to learn more about this important social institution, which is vital to a free and democratic society.

All citizens need to know their legal rights and responsibilities. The better informed citizens are, the better able they are to protect themselves. A major theme of this book is that much of what the public “knows” about criminal justice in the United States is myth—that is, it is either wrong or significantly misunderstood. Consequently, in addition to presenting current, accurate information about criminal justice in the United States and generally accepted interpretations of historical and modern developments, this book “sets the record straight” in areas where, we believe, many people are being misled.

With the help of a quality education in criminal justice, people will feel more comfortable and better equipped to participate in criminal justice policy formulation. They also will be more effective in solving problems in their communities. They will have the critical thinking skills they need if they are to be constructive participants in a democratic nation and to have greater control over their own destinies.

## The Tenth Edition

Since the events of September 11, 2001, many people who once had no fear of public transportation, especially air travel, now fear it, afraid that a bomb might explode on board or that an airplane, for example, will be commandeered by terrorists who will turn it into a weapon of mass destruction. People are even more suspicious of strangers, particularly of certain ethnic groups who before 9/11 caused little concern. In short, we now live in the Age of Terrorism.

The Tenth Edition of *Introduction to Criminal Justice* continues to examine the new, expanded role of criminal justice in the “war against terrorism,” which we introduced in the Fourth Edition in 2004. As noted in the Fourth Edition, this war has caused the most dramatic transformation of the U.S. government in more than 50 years and has altered criminal justice at all levels of government in many ways. For example, the massive Department of Homeland Security was created, and, as in previous editions, its current organization is described. Also, following 9/11, the top priority of the Federal Bureau of Investigation (FBI) shifted from being a federal police agency to being an intelligence and counterterrorism agency. New laws, such as the USA PATRIOT Act, have been passed to provide governments with broad new powers to combat terrorism. These laws have changed many of the traditional rules of criminal justice. In short, in this Tenth Edition, the

criminal justice response to terrorism continues to receive serious treatment in several chapters. A list of those additions and many others is provided later.

In addition to integrating detailed coverage of terrorism, this Tenth Edition examines other current issues and challenges that confront criminal justice professionals, such as gun control, technology, privacy, and budget shortfalls. The text has been updated throughout with the latest available statistics, research, and court cases, and like previous editions, presents supplementary features such as Myth versus Fact boxes, FYIs, and CJ Onlines in the text’s margins. The Tenth Edition still has Critical Thinking questions at the end of each major section, as well as coverage of some of today’s highest-profile criminal investigations and cases in 14 new or updated chapter-opening Crime Stories. We also have created “new knowledge,” for example, by taking existing data and calculating new statistical insights about it. For instance, throughout the text, we calculate and report percentage changes over time to identify longer-term trends in the data. Following is a chapter-by-chapter list of new text material in this Tenth Edition:

- Chapter 1, Crime and Justice in the United States, presents (1) top broadcast television shows during a week in 2019, featuring criminal justice-oriented programs, (2) top crime news stories in the United States in 2018, (3) calls for police service in Portland, Oregon for 2018–2019, and (4) costs of criminal justice in 2016.
- Chapter 2, Crime and Its Consequences, introduces (1) a new example of concurrence—a legal element of crime, (2) new examples of the police manipulation of crime statistics, (3) recent developments in the NIBRS program, (4) an updated comparison of NCVS and UCR data, (5) updated information on the tangible and intangible costs of crime, (6) an updated list of what Americans fear about crime, and (7) strategies to avoid becoming a crime victim.
- Chapter 4, The Rule of Law, provides new information about (1) the history of Native American (Cherokee) criminal law and its administration, (2) the Fourth Amendment and cell phone records in *Carpenter v. United States* (2018), (3) the Supreme Court’s incorporation of the excessive fines clause and making it applicable to the states in *Timbs v. Indiana* (2019), and (4) exonerations.
- Chapter 5, History and Structure of American Law Enforcement, features new material about (1) the history of Native American (Cherokee) law enforcement, (2) the Department of Homeland Security, and (3) private security.
- Chapter 6, Policing: Roles, Styles, and Functions, presents new material about (1) the FBI’s biometric identification services’ Next Generation Identification (NGI) system, (2) cybercrime, (3) limitations on civil asset forfeiture in *Timbs v. Indiana* (2019), and (4) “The First Step Act.”
- Chapter 7, Policing America: Issues and Ethics, includes new information about (1) police attitudes toward the public, (2) Black Lives Matter, (3) Seattle police officer selection



standards, 2019, (4) 2020 police officer salaries in the United States, (5) police officer education levels in the United States, 2016, (6) affirmative action in policing, (7) a 2015 federal study of police and public contacts, (8) police use of excessive force, and (9) police corruption.

- Chapter 8, The Administration of Justice, presents updated information about (1) the race and gender of elected prosecutors, 2019, and (2) examples of a felony information, grand jury indictment, and subpoena.
- Chapter 10, Institutional Corrections, provides a new discussion of (1) the federal prison system (BOP), (2) private prison services, (3) privatization, (4) costs of incarceration, (5) prison inmate characteristics, (6) state prisons, (7) women's prisons, (8) elderly prisoners, (9) mental health in prisons, (10) HIV testing in prisons, (11) inmate work programs, (12) prison educational and vocational programs, and (13) cognitive behavioral therapy in prisons.
- Chapter 11, Prison Life, Inmate Rights, Release, Reentry and Recidivism, examines new information on (1) physical and sexual violence in prisons, (2) new forms of prison contraband, (3) pregnant inmates, (4) correctional officers, (5) clemency, (6) reentry, (7) recidivism, and (8) the First Step Act.
- Chapter 12, Community Corrections, introduces new material on (1) parole discharge and revocation and (2) electronic monitoring.
- Chapter 13, Juvenile Justice, includes new material on (1) teen or youth courts, (2) a recent evaluation of Florida's civil-citation program, (3) suicides of youth in custody, (4) juvenile probation, and (5) New York City's "Close to Home" program.

## Organization

This book is divided into 14 chapters that are organized into five parts. Part One, The Foundations of Criminal Justice, introduces students to the concepts of crime and justice, as well as how crime affects society, how it can be explained, and the rule of law. Part Two, Law Enforcement, is dedicated to the law enforcement component of criminal justice—its history, structure, roles, ethical issues, and challenges. Part Three, The Courts, focuses on the administration of justice, sentencing, appeals, and the court process as a whole. Part Four, Corrections, introduces students to the corrections system, jails, prisons, alternative sanctions, community corrections, and release of prisoners back into the community. Part Five, Additional Issues in Criminal Justice, touches on some of the most pressing challenges in the system today: juvenile justice, the future of criminal and juvenile justice, new and proposed technology, terrorism, and more.

## An Integrated Print and Digital Learning System

Working together, the authors and editors have developed a learning system designed to help students get the most out of their first criminal justice course. In this edition, Connect Criminal Justice,

a highly interactive learning environment, coupled with proven pedagogical resources in the text, offer a learning system that is without peer in Introduction to Criminal Justice programs. In addition to the many changes already mentioned, we have included many new photographs to make the book even more inviting and relevant for students. As noted, we have added new and current chapter-opening *Crime Story* vignettes, giving the material a fresh flavor intended to motivate students to read on. New and carefully updated tables and figures highlight and amplify the text coverage; and chapter outlines, objectives, marginal definitions, and an end-of-book Glossary all help students master the material.

Other innovative learning tools include:

- *Myth vs. Fact*. These inserts debunk common misconceptions about the system and alert students to the need to question what they see in the media.
- *Thinking Critically*. These sections challenge students to think about and apply chapter concepts.
- *Careers in Criminal Justice*. These mini-biographies highlight some of the most exciting career options available to criminal justice majors and keep the book relevant for students.
- *CJ Online*. These inserts enable students to explore chapter topics on the Internet in a directed fashion.
- *FYI*. These sidebars present eye-opening additional information to retain students' interest and keep them thinking about what they are reading.

We are especially proud of our comprehensive end-of-chapter review sections in which we provide every kind of review and study tool students could need:

- *Summary*—an extremely effective study tool because it is organized into sections that mirror the chapter-opening objectives.
- *Key Terms*—a comprehensive list of the terms defined in the chapter, complete with page references to make it easy for students to review them in the chapter.
- *Review Questions*—study questions that allow students to test their knowledge and prepare for exams.
- *In the Field Activities*—unique experiential exercises that enable students to broaden their understanding of chapter material by taking it to the next level.
- *On the Web Exercises*—still more Internet-based exercises for today's students.
- *Critical Thinking Exercises*—unique scenario-based activities that challenge students to apply what they've learned in the chapter.

## Criminal Justice Resources for Today's Instructors and Students



The tenth edition of *Introduction to Criminal Justice* is now available online with Connect, McGraw-Hill's integrated assignment and assessment platform. Connect also offers SmartBook® 2.0 for the new edition, which is the first adaptive reading experience

proven to improve grades and help students study more effectively. All of the title's website and ancillary content also is available through Connect, including:

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- An Instructor's Manual for each chapter with full chapter outlines, sample test questions, and discussion topics.
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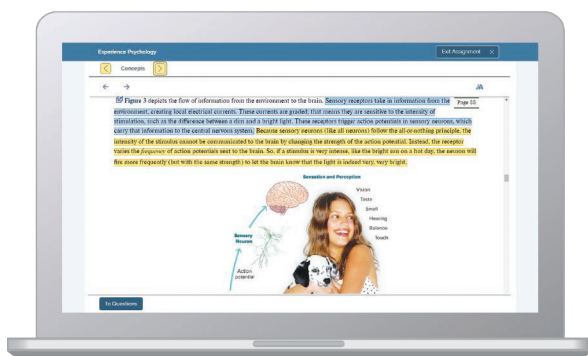
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# Constitutional Issues

You will find coverage of key constitutional issues throughout this book. Use this handy guide to coverage as you study *Introduction to Criminal Justice*.

## Article I

Section 9—Chapter 8  
Section 9.3—Chapter 4  
Section 10.1—Chapter 4  
Section 10.1—Chapter 2

## Article III

Section 1—Chapter 8  
Section 2—Chapter 8  
Section 2.3—Chapter 4

## The Bill of Rights

### Amendment 1

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble; and to petition the Government for a redress of grievances.

### Amendment 2

A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

### Amendment 3

No soldier shall, in time of peace be quartered in any house without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

### Amendment 4

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. Chapter 4.

### Amendment 5

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to

be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation. Chapter 4.

### Amendment 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which districts shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense. Chapter 4.

### Amendment 7

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common laws.

### Amendment 8

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Chapter 4, Chapter 9, Chapter 11.

### Amendment 9

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

### Amendment 10

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

## Post–Civil War Amendments

### Amendment 14

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Chapter 4, Chapter 9, Chapter 11.

# 1



Sam Lothridge/CBS/Getty Images

## Crime and Justice in the United States

### CHAPTER OUTLINE

#### Crime in the United States

#### Criminal Justice: An Institution of Social Control

#### Criminal Justice: The System

- Police
- Courts
- Corrections

#### Criminal Justice: The Nonsystem

#### Two Models of Criminal Justice

- The Crime Control Model
- The Due Process Model
- Crime Control versus Due Process

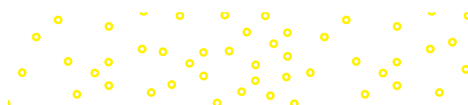
#### Costs of Criminal Justice

#### Myths About Crime and Criminal Justice

### LEARNING OBJECTIVES

After completing this chapter, you should be able to:

1. Describe how the type of crime routinely presented by the media compares with crime routinely committed.
2. Identify institutions of social control, and explain what makes criminal justice an institution of social control.
3. Summarize how the criminal justice system responds to crime.
4. Explain why criminal justice in the United States is sometimes considered a nonsystem.
5. Point out major differences between Packer's crime control and due process models.
6. Describe the costs of criminal justice in the United States, and compare those costs among federal, state, and local governments.
7. Explain how myths about crime and criminal justice affect the criminal justice system.







# Crime Story

**O**n February 14, 2018, 19-year-old Nikolas Cruz (pictured) walked into Marjory Stoneman Douglas (MSD) High School in Parkland, Florida, and opened fire with an AR-15 assault rifle. After shooting more than 100 rounds in 6 minutes, 14 students and 3 staff members were dead, and 17 others were wounded. The 17 people killed at the high school represented 30% of the 56 school shooting victims killed in 2018—the deadliest year on record (as of 2018).

Cruz walked away from the carnage, blending in with other students, but was caught and arrested about an hour later. The state attorney in Broward County charged Cruz with 17 counts of premeditated murder and 17 counts of attempted murder and is seeking the death penalty. Cruz is being held without bail. His defense attorneys acknowledge that he was the killer and have focused their efforts on avoiding execution.

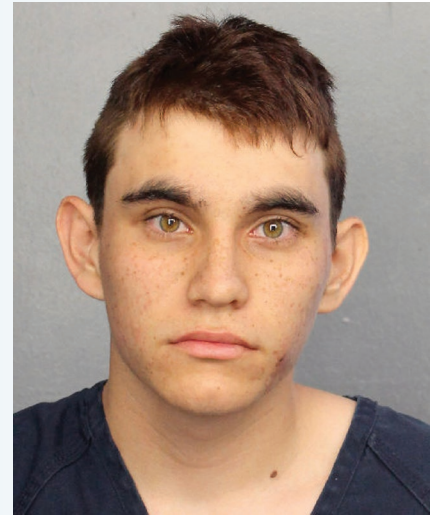
Several of the surviving students are determined that the deaths of their classmates and friends will not be forgotten following the requisite “thoughts and prayers,” as has been the case after so many previous school shootings. Instead, these students organized the “Never Again MSD” movement and helped to coordinate the National School Walkout of March 14, and the March for Our Lives on March 24. The latter crusade attracted more than one million people across the country to rally for safe schools and an end to gun violence. They also have worked to get young people to register and vote, even though some of them were not old enough to vote themselves and have been lobbying for stricter gun laws and challenging the National Rifle Association and the lawmakers it supports.

The efforts of local, state, and national officials pale in comparison. The MSD High School Public Safety Commission, which was created to examine the tragedy, criticized Broward County Sheriff Scott Israel for a policy stipulating that

deputies “may” confront active shooters rather than “shall” confront them. Deputy Scot Peterson, the school resource officer and first law enforcement on the scene, chose not to confront Cruz. Sheriff Israel called Peterson a “disgrace,” telling reporters that Peterson should have rushed in, “addressed the killer, killed the killer.” President Trump, responding to the massacre, said, “That’s a case where somebody was outside, they’re trained, they didn’t act properly or under pressure or they were a coward.”

Peterson, in his defense, stated that at first he thought the shooting was firecrackers outside the school, and then he maintained that he could not tell from where the gunshots were coming. He asserted that he followed protocol by taking up a tactical position outside the building. However, the Commission determined that he lied, and that Peterson knew the shooter was inside the school but did not want to confront him. Peterson resigned from the Sheriff’s department and is collecting a pension of more than \$100,000 a year. As for Sheriff Israel, he justified his “non-confrontation” policy by explaining that he did not want his deputies charging into “suicide missions.” New Florida Governor Ron DeSantis, in one of his first acts after taking office, suspended Israel, accusing him of “neglect of duty” and “incompetence.” Israel has requested a hearing on the suspension before the state senate.

The report also was critical of school superintendent Robert Runcie for inadequate security at the school, not preparing school staff to respond to a mass shooting, and his PROMISE program, which was designed to prevent some student rule violators, such as Nikolas Cruz, from getting police records. Cruz had been expelled from the school the year before. Runcie has subsequently ordered safety upgrades. He also fired two school security monitors and re-assigned three assistant principals and a security specialist. Runcie has retained his job for now. In his defense, the president of the



Broward’s Sheriff’s Office/Getty Images

NAACP Florida State Conference argued that removing Runcie “would be an extreme overreach, highly political and racist.”

Following the tragedy, some states approved gun control measures, such as keeping firearms from people convicted of domestic violence or considered suicidal, increasing background checks, and restricting the concealed carrying of firearms. The only federal legislation of note was the banning of bump stocks, which are devices that can make a weapon fire many rounds in a short period of time.

According to the Naval Postgraduate School Center for Homeland Defense and Security’s K–12 School Shooting Database, the MSD High School shooting was one of 97 that occurred in 2018—the largest number of school shooting incidents in the United States in any year since data were first collected in 1970. Since December 14, 2012, the date of the Sandy Hook Elementary School shooting in Newtown, Connecticut, where 20-year-old Adam Lanza shot and killed 20 children between the ages of 6 and 7 and 6 adult staff members, and through 2018, 296 school shootings have occurred in the United States with 142 deaths and 300 injuries.

Among the topics discussed in this chapter is how the media shape people’s

understanding of crime and criminal justice. While the media coverage of the Sandy Hook Elementary School and MSD High School shootings received extensive media coverage, did you know that they were only two of the nearly 300 school shootings that occurred between 2013 and 2018? Why not?

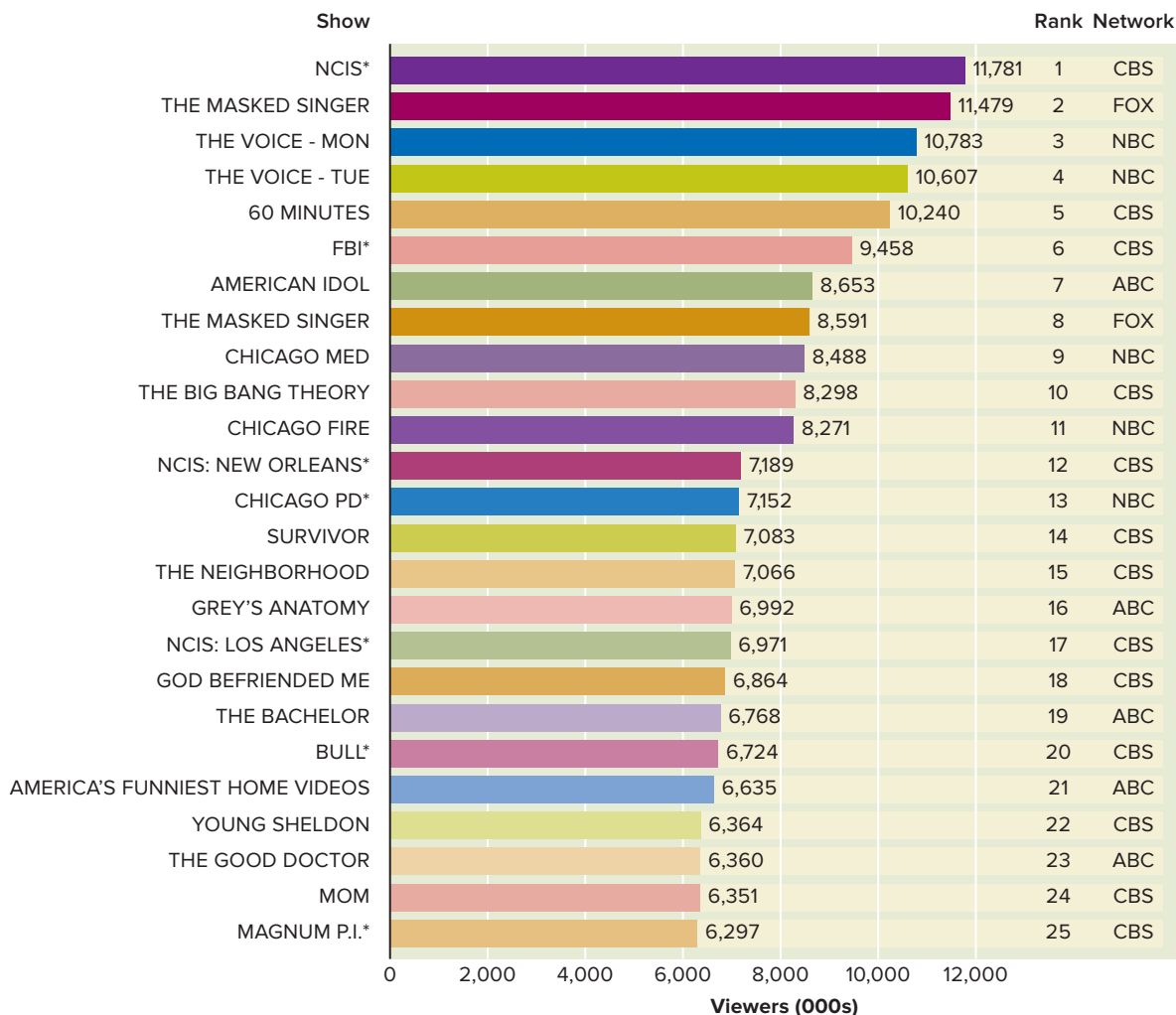
And while 34 students and 9 staff members were killed at Sandy Hook Elementary School and MSD High School, did you know that nearly 100 other students and staff members were killed between 2013 and 2018? Why not? The answers to those questions likely include the lack of extensive media coverage

of the vast majority of school shootings. What determines which events the media focus on? Based on what you have learned here, do you think school shootings are a problem in the United States? Do you think they are a greater problem than you originally believed?

## Crime in the United States

Every day we are confronted with reports of crime in newspapers, magazines, and radio and television news programs. We also see crime in TV docudramas; on such popular shows as the fictional *Criminal Minds*, *The Blacklist*, and *Bones*; on the long-running franchises *Law & Order* and *CSI*; and on reality-based shows such as *America's Most Wanted*, *Cops*, and *Unsolved Mysteries*. Crime shows are so popular on television they accounted for 7 of the top 25 broadcast shows for the week February 25 to March 3, 2019 (see Table 1.1). Furthermore, in some of the other top 25 series, such as *60 Minutes*, crime is frequently a

**TABLE 1.1** Top 25 Broadcast Shows in Total Viewers for February 25–March 3, 2019





### Daily Television Time

According to a 2018 study, Americans aged 18 and

older spend nearly 5 hours a day watching TV—about the same amount of time found in 2014 and 2009 studies. However, the 2018 study found a generation gap. Those aged 50 and older spent more than 6 hours a day watching TV, while young adults watched significantly less TV.

Source: Felix Richter, “The Generation Gap in TV Consumption,” *Statista*, August 27, 2018, <https://www.statista.com/chart/15224/daily-tv-consumption-by-us-adults/>; David Hinckley, “Average American Watches 5 Hours of TV Per Day, Report Shows,” *New York Daily News*, March 5, 2014, [www.nydailynews.com/life-style/8-Hours-a-Day-Spent-on-Screens-Study-Finds-03/27/business/media/27adco.html?\\_r=1](http://www.nydailynews.com/life-style/8-Hours-a-Day-Spent-on-Screens-Study-Finds-03/27/business/media/27adco.html?_r=1).

significant storyline element. There is also the Crime + Investigation channel, which prominently features crime and justice issues. And crime is a favorite subject of movies and novels. Unfortunately, some of us encounter crime more directly as victims. No wonder crime is a top concern of the American public.

We should keep in mind, however, that the crimes presented by the media are usually more sensational than the crimes routinely committed. Consider some of the top crime news stories in the United States in 2018:

- On February 5, 2018, Larry Nassar, the 54-year-old disgraced former USA Gymnastics and Michigan State University doctor, was sentenced in Eaton County, Michigan, to 40 to 125 years in prison after pleading guilty to 3 counts of first-degree criminal sexual conduct. He will serve that sentence concurrently (at the same time) with the 40-to-175-year sentence he received on January 24, 2018, in Ingham County, Michigan, after pleading guilty to 7 counts of first-degree criminal sexual conduct. He will serve those sentences after completing a separate 60-year sentence in federal prison that he received on December 7, 2017, for child pornography charges. At his state trials, more than 150 women and girls testified that he sexually abused them over the past 2 decades. He admitted to using his trusted medical position to assault and molest girls under the guise of medical treatment.<sup>1</sup>
- On February 14, 2018, 19-year-old Nikolas Cruz killed 14 students and 3 staff members and wounded 17 others when he opened fire with an AR-15 assault rifle at Marjory Stoneman Douglas High School in Parkland, Florida. Cruz, who had been expelled from the school the year before, walked away from the carnage, blending in with other students, but was arrested more than an hour later. The state attorney in Broward County charged Cruz with 17 counts of premeditated murder and 17 counts of attempted murder and will seek the death penalty. The 17 people killed at the high school represented 30% of the 56 school shooting victims in 2018—the deadliest year on record (as of 2018; see the Crime Story for more details).<sup>2</sup>
- On May 18, 2018, 17-year-old Dimitrios Pagourtzis used his father’s legally owned sawed off shotgun and a .38 handgun to kill 9 students and 1 teacher and wound 13 others at Santa Fe High School, near Galveston, Texas. Pagourtzis admitted that he did not shoot people he liked and intended to kill the ones he targeted. One student reported that Pagourtzis was “really quiet and he wore like a trench coat almost every day.” Law enforcement authorities later found explosive devices, including pipe bombs and pressure cookers, in and near the school. The school shooting was the 22nd in the United States since the beginning of 2018.<sup>3</sup>
- On June 28, 2018, 38-year-old Jarrod Ramos walked into the *Capital Gazette* newsroom in Annapolis, Maryland, opened fire, and killed five newspaper employees and wounded two others. The attack occurred a few years after Ramos had unsuccessfully sued the newspaper for defamation after the newspaper published an article about Ramos harassing a former classmate on social media. Ramos pleaded guilty to a harassment charge. On July 20, 2018, Ramos was indicted on 23 counts, including 5 counts of first-degree murder, 1 count of attempted first-degree murder, and 17 other assault and weapon charges. On January 22, 2019, a judge gave Ramos extra time to consider changing his not guilty plea to an insanity plea.<sup>4</sup>
- On September 25, 2018, 81-year-old Bill Cosby, once known as “America’s Dad,” received a 3-to-10-year sentence in state prison for drugging and sexually assaulting Andrea Constand at his home in 2004. Cosby also was ordered to pay a fine of \$25,000 plus court costs. He will be classified as a “sexually violent predator,” a designation that requires lifetime registration, lifetime mandatory sex offender counseling with a treatment provider, and notification to the community that a “sexually violent predator” lives in the area. Cosby was convicted in April of aggravated indecent assault. He had been accused of similar crimes by dozens of other women, but Constand’s case was the only one that occurred within the **statute of limitations**. A statute of limitations is a law establishing a time limit for prosecuting a crime, based on the date when the offense occurred. Cosby’s trial was the first high-profile celebrity criminal trial of the #MeToo era.<sup>5</sup>
- On October 27, 2018, Robert Bowers, a 46-year-old long-haul trucker armed with a rifle and three handguns, stormed into the Tree of Life Congregation Synagogue in the affluent Squirrel Hill neighborhood of Pittsburgh, Pennsylvania, shouting anti-Semitic slurs and killing 11 worshipers in a 20-minute attack. Two worshipers and four officers were injured. The murder victims ranged in age from 54 to 97. Bowers finally surrendered to police officers after suffering multiple gunshot wounds. Bowers was charged with 29 federal criminal counts, including 11 federal hate-crime charges. Another 11 counts of using a firearm to

**statute of limitations** A law establishing a time limit for prosecuting a crime, based on the date when the offense occurred.

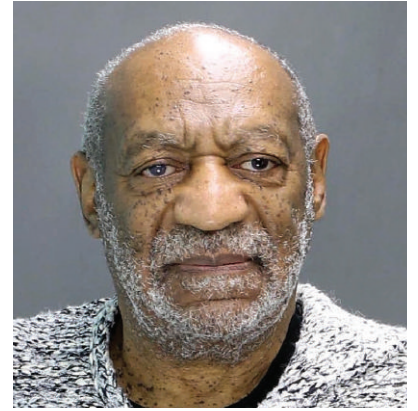




JEFF KOWALKSY/Contributor/Getty Images



Amy Beth Bennett/Sun Sentinel/TNS via Getty Images



Montgomery County District Attorney's Office/Getty Images

Criminal cases involving Larry Nassar, Nikolas Cruz, and Bill Cosby were among the top crime news stories of 2018. *What factors made these crimes so sensational?*

kill carry a maximum penalty of death. He had previously posted anti-Semitic rants on social media. In 2017, anti-Semitic incidents in the United States increased nearly 60%. The attack is believed to be the deadliest on the Jewish community in U.S. history.<sup>6</sup>

- On November 7, 2018, Ian David Long, a 28-year-old former Marine armed with a legally purchased .45-caliber Glock 21 handgun with an extended magazine, shot his way into the Borderline Bar and Grill in Thousand Oaks, California, about 40 miles northwest of Los Angeles. He killed 12 people, including a sheriff's sergeant, before shooting and killing himself. Many other people were wounded. Several hundred people were inside the bar for a "college country night." At the time, it was the 307th mass shooting in the United States in 2018.<sup>7</sup>

Some of these crime stories are likely to remain top news stories for 2019 and beyond. Furthermore, the fight against domestic terrorism occasioned by the tragedies of September 11, 2001, is likely to remain newsworthy for the foreseeable future. However, taken together, these sensational crime news stories do not provide a very accurate image of the types of crime by which the average citizen is victimized. Nor do such stories accurately depict the kinds of crime the police respond to on a daily basis.

To provide a more accurate idea of the kinds of crimes more typically committed, we reviewed a list of calls for police service in Portland, Oregon, from February 2018 to February 2019.<sup>8</sup> There were 832,123 calls for police service during the period selected. A close examination of the list of police calls (see Table 1.2) reveals that the most frequent type of call for



#### Crime in the News

You can read more about past and present crime news stories by visiting the

ThoughtCo. Crime/Punishment website at <https://www.thoughtco.com/crime-and-punishment-4132972>.

*Does this website provide a balanced picture of crime in the United States, or does it primarily provide sensational news coverage?*



Portland Press Herald/Getty Images

As shown in Table 1.2, Portland, Oregon, police respond to unwanted person and welfare check calls more often than any other type of call for service. *Should police respond to these types of calls, or should some other agency be responsible for them? Defend your answer.*

**TABLE 1.2** Distribution of Calls for Police Service

Police Calls	Percentage
Unwanted person <sup>a</sup>	11.6
Welfare check <sup>b</sup>	11.3
Disturbance <sup>c</sup>	10.6
Suspicious <sup>d</sup>	8.2
Theft <sup>e</sup>	7.4
Collision <sup>f</sup>	5.4
Alarm <sup>g</sup>	4.9
Stolen vehicle <sup>h</sup>	4.3
Area/premise check <sup>i</sup>	4.0
Assist <sup>j</sup>	3.9
Assault <sup>k</sup>	2.6
Threat <sup>l</sup>	2.1
Behavioral health <sup>m</sup>	2.0

<sup>a</sup>Calls related to subjects refusing to leave a location when asked; <sup>b</sup>Calls related to requests to check on the health or safety of a subject; <sup>c</sup>Calls related to nonspecific reports of a threat to public peace or safety; <sup>d</sup>Calls related to reports of suspicious persons, vehicles, or circumstances; <sup>e</sup>Calls related to the unlawful taking of property from the possession of another entity; <sup>f</sup>Calls related to reports of traffic collisions; <sup>g</sup>Calls initiated by the activation of an audible, silent, duress, and/or monitored alarm of a vehicle, residence, business, or other premise; <sup>h</sup>Calls related to the theft of a motor vehicle; <sup>i</sup>Calls related to requests to check a specific location for potential problems or to make sure the site is secure; <sup>j</sup>Calls to provide assistance to partner agencies, including Portland Fire and Rescue, American Medical Response (AMR), and other law-enforcement agencies; <sup>k</sup>Calls related to the unlawful attack by one person upon another. Includes stabbings, shootings, and other types of assaults; <sup>l</sup>Calls related to the placing of another person in reasonable fear of bodily harm through the use of words or other conduct; <sup>m</sup>Calls related to behavioral health, including crisis response, suicide attempts or threats, and transports to detox.

Notes: These data represent calls for police service to the Portland, Oregon Police Department from February 2018 to February 2019. There were a total of 832,123 calls.

Source: Police Foundation, Police Data Initiative. Portland, Oregon. Accessed April 4, 2019, [policedatainitiative.org](http://policedatainitiative.org) or <https://www.portlandoregon.gov/police/76454>.

service in Portland involves unwanted persons. This type of call accounted for 11.6% of the total. Other calls for service in Portland ranged from welfare checks (11.3%) to disturbances (10.6%); from suspicious persons, vehicles, or circumstances (8.2%) to thefts (7.4%); and from traffic collisions (5.4%) to alarms (4.9%). The calls for police service listed in Table 1.2 represent only those that accounted for at least 2% of the total calls. In all, there were 49 categories of calls for police service. There were also serious crimes or potential crimes not included in the list (because they accounted for less than 2% of the total calls): 3,284 robbery calls (0.4%), 1,491 domestic violence calls (0.2%), and 77 arson calls (0.009%). Police also are called to assist motorists and to provide escorts for funeral processions—to name just two additional services. Police services and responsibilities are discussed further in Chapter 6.

Here, it is important to observe that the calls police routinely respond to rarely involve the sensational crimes reported by the media. In many cases, they do not involve crimes at all. Critics argue that the news media have a dual obligation to (1) present news that reflects a more balanced picture of the overall crime problem and (2) reduce their presentation of sensational crimes, especially when such crimes are shown not so much to inform as to pander to the public's curiosity and its simultaneous attraction and repulsion toward heinous crimes. The more fundamental problem, however, is that the public's conception of crime is, to a large extent, shaped by the media, and what the media present, for the most part, misleads the public about the nature of crime.

### THINKING CRITICALLY

1. Do you think the news media are obligated to present a balanced picture of the overall crime problem and reduce their presentation of sensational crimes? Why or why not?
2. How much do you think the media influence the public conception of crime? How do you think the media select crime stories on which to focus?
3. In what ways is crime entertainment?

## Criminal Justice: An Institution of Social Control

In the United States, there are a variety of responses to crime. When a child commits a criminal act, even if that act does not come to the attention of the police, parents or school authorities nevertheless may punish the child for the offense (if they find out about it). Attempts to prevent crime by installing burglar alarms in automobiles and homes are other ways of responding to crime. Throughout this book, we focus on the criminal justice response to crime.

Like the family, schools, organized religion, the media, and the law, criminal justice is an **institution of social control** in the United States. A primary role of such institutions is to persuade people, through subtle and not-so-subtle means, to abide by the dominant values of society. Subtle means of persuasion include gossip and peer pressure, whereas expulsion and incarceration are examples of not-so-subtle means.

As an institution of social control, criminal justice differs from the others in two important ways. First, the role of criminal justice is restricted officially to persuading people to abide by a limited range of social values whose violation constitutes crime. Thus, although courteous behavior is desired of all citizens, rude behavior is of no official concern to criminal justice unless it violates the criminal law. Dealing with noncriminal rude behavior is primarily the responsibility of the family. Second, criminal justice is generally society's "last line of defense" against people who refuse to abide by dominant social values and commit crimes. Usually, society turns to criminal justice only after other institutions of social control have failed.

### THINKING CRITICALLY

1. Given what you know about crime in the United States, do you think that the criminal justice system is a strong institution of social control? Why?
2. Do you think that other institutions such as the family, schools, and organized religion are better institutions of social control than the criminal justice system? If so, which ones? Why?

**institution of social control** An organization that persuades people, through subtle and not-so-subtle means, to abide by the dominant values of society.



### Confidence in the Criminal Justice System

In a 2018 public opinion poll, 22% of Americans responded they had a "great deal" (9%) or "quite a lot" (13%) of confidence in the criminal justice system, 41% had "some" confidence, 34% had "very little" confidence, 2% had no ("none") confidence, and 1% had no opinion.

Source: Gallup, "Confidence in Institutions." Accessed February 13, 2019, <https://news.gallup.com/poll/1597/confidence-institutions.aspx>.

## Criminal Justice: The System

Criminal justice in the United States is administered by a loose confederation of more than 50,000 agencies of federal, state, and local governments. Those agencies consist of the police, the courts, and corrections. Together they are commonly referred to as the *criminal justice system*. Although there are differences in the ways the criminal justice system operates in different jurisdictions, there are also similarities. The term **jurisdiction**, as used here, means a politically defined geographical area (e.g., a city, a county, a state, or a nation).

The following paragraphs provide a brief overview of a typical criminal justice response to criminal behavior. Figure 1.1 is a graphic representation of the process. It includes the variations for petty offenses, **misdemeanors** (less serious crimes), **felonies** (serious crimes), and juvenile offenses. Later chapters of this book provide a more detailed examination of the criminal justice response to crime and delinquency.

### Police

The criminal justice response to crime begins when a crime is reported to the police or, far less often, when the police themselves discover that a crime has been committed. Sometimes, solving the crime is easy—the victim or a witness knows the perpetrator or where to find him or her. Often, an arrest supported by witness statements and crime scene evidence is sufficient to close a case, especially with a less serious crime. More often, though, the police must conduct an in-depth investigation to determine what happened in a particular crime. Even when the police start with a known crime or a cooperative victim or witness, the investigation can be lengthy and difficult.

If police investigation of the crime is successful, a suspect is arrested. An **arrest** is the seizing and detaining of a person by lawful authority. After an arrest has been made, the

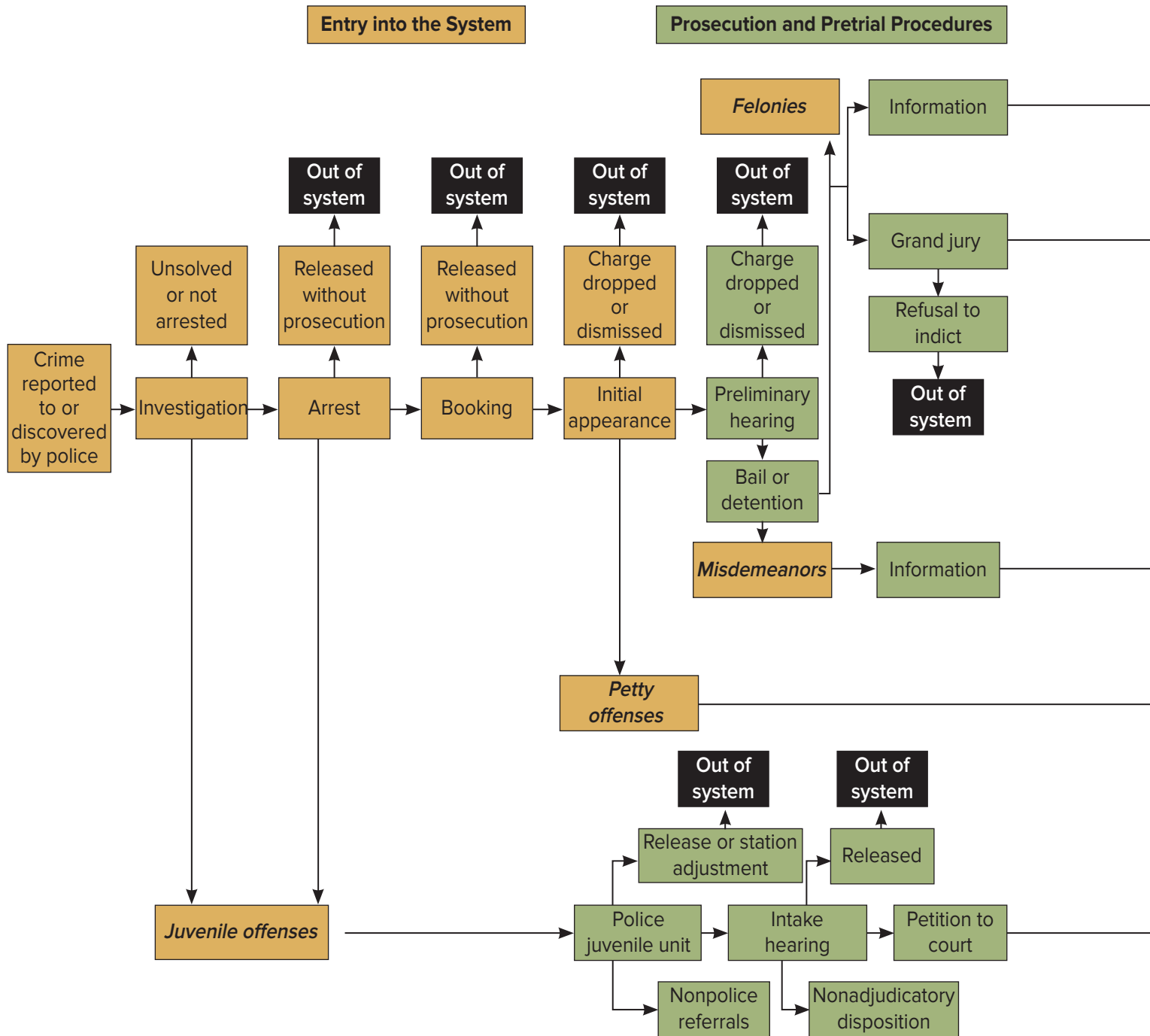
**jurisdiction** A politically defined geographical area. The right or authority of a justice agency to act with regard to a particular subject matter, territory, or person. The authority of a court to hear and decide cases.

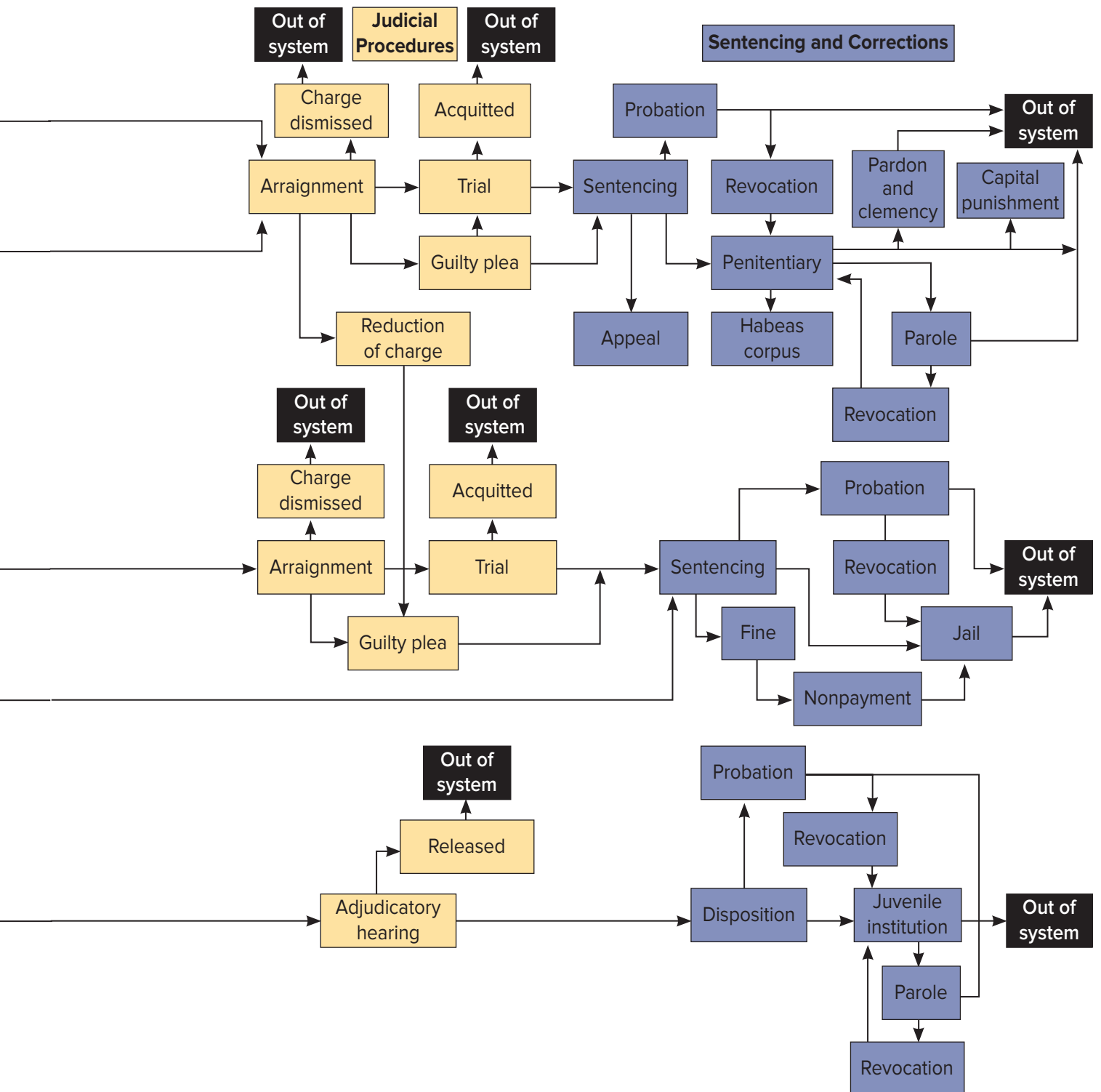
**misdemeanor** A less serious crime generally punishable by a fine or by incarceration in jail for not more than 1 year.

**felony** A serious offense punishable by confinement in prison for more than 1 year or by death.

**arrest** The seizing or the taking of a person into custody by lawful authority, either actual physical custody, as when a suspect is handcuffed by a police officer, or constructive custody, as when a person peacefully submits to a police officer's control.

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







Getting fingerprints is generally a part of the booking into jail process. Pictured here is an inmate being fingerprinted with a technologically advanced “Printrat Livescan Finger Machine.” *Why are inmates fingerprinted?*



Thinkstock Images/Getty Images

**booking** The administrative recording of an arrest. Typically, the suspect’s name, the charge(s) for which the person was arrested, and perhaps the suspect’s fingerprints or photograph are entered in the police blotter.

**defendant** A person against whom a legal action is brought, a warrant is issued, or an indictment is found.

**initial appearance** A pretrial stage in which a defendant is brought before a lower court to be given notice of the charge(s) and advised of her or his constitutional rights.

**summary trial** A trial before a judge without a jury.

**probable cause** The amount of proof necessary for a reasonably intelligent person to believe that a crime has been committed or that items connected with criminal activity can be found in a particular place. It is the standard of proof needed to conduct a search or to make an arrest.

suspect is brought to the police station to be booked. **Booking** is the administrative recording of the arrest. It typically involves entering the suspect’s name, the charge, and perhaps the suspect’s fingerprints and/or photograph in the police blotter.

## Courts

Soon after a suspect has been arrested and booked, a prosecutor reviews the facts of the case and the available evidence. Sometimes, a prosecutor reviews the case before arrest. The prosecutor decides whether to charge the suspect with a crime or crimes. If no charges are filed, the suspect must be released.

**Pretrial Stages** After the charge or charges have been filed, the suspect, who is now the **defendant**, is brought before a lower court judge for an initial appearance. At the **initial appearance**, the defendant is given formal notice of the charge or charges against him or her and advised of his or her constitutional rights (e.g., the right to counsel). In the case of a misdemeanor or an ordinance violation, a **summary trial** (an immediate trial without a jury) may be held. In the case of a felony, a hearing is held to determine whether the defendant should be released or whether there is probable cause to hold the defendant for a preliminary hearing. **Probable cause** is a standard of proof that requires trustworthy evidence sufficient to make a reasonable person believe that, more likely than not, the

proposed action is justified. If the suspect is to be held for a preliminary hearing, bail is set if the judge believes release on bail is appropriate. **Bail**, usually a monetary guarantee deposited with the court, is meant to ensure that the defendant will appear at a later stage in the criminal justice process. In states that do not utilize preliminary hearings, an arraignment date is scheduled at the initial appearance.

In about half of all states, a preliminary hearing follows the initial appearance. Preliminary hearings are used only in felony cases. The purpose of the **preliminary hearing** is for a judge to determine whether there is probable cause to believe that the defendant committed the crime or crimes with which he or she is charged. If the judge finds probable cause, the defendant is bound over for possible indictment in a state with grand juries or for arraignment on a document called an *information* (see below) in a state without grand juries.

Grand juries are involved in felony prosecutions in about half the states. A **grand jury** is a group of citizens who meet in closed sessions for a specified period to investigate charges coming from preliminary hearings and to fulfill other responsibilities. Thus, a primary purpose of the grand jury is to determine whether there is probable cause to believe that the accused committed the crime or crimes with which the prosecutor has charged the person. The grand jury can either indict a suspect or issue a “true bill,” or fail to indict a suspect or “issue no bill.” If the grand jury fails to indict or issues no bill, the prosecution must be dropped. In states that do not use grand juries, prosecutors charge defendants with a document called an *information*. An **information** outlines the formal charge or charges, the law or laws that have been violated, and the evidence to support the charge or charges.

Once an indictment or information is filed with the trial court, the defendant is scheduled for arraignment. The primary purpose of **arraignment** is to hear the formal information or indictment and to allow the defendant to enter a plea. About 95% of criminal defendants plead guilty to the charges against them in an arrangement called *plea bargaining*. **Plea bargaining** is the practice whereby the prosecutor, the defense attorney, the defendant, and, in many jurisdictions, the judge agree on a specific sentence to be imposed if the accused pleads guilty to an agreed-on charge or charges instead of going to trial.

**Trial** If a defendant pleads not guilty or not guilty by reason of insanity, a trial date is set. Although all criminal defendants have a constitutional right to a trial (when imprisonment for 6 months or more is a possible outcome), only about 5% of all criminal cases are disposed of by trial. Approximately 2% of criminal cases involve jury trials. The remaining cases that are not resolved through plea bargaining are decided by a judge in a **bench trial** (without a jury). Thus, approximately 95% of all criminal cases are resolved through plea bargaining, about 2% through jury trials, and about 3% through bench trials. (See Figure 1.2.) In most jurisdictions, the choice between a jury trial and a bench trial is the defendant’s to make.

If the judge or the jury finds the defendant guilty as charged, the judge begins to consider a sentence. In some jurisdictions, the jury participates to varying degrees in the sentencing process. The degree of jury participation depends on the jurisdiction and the crime. If the judge or jury finds the defendant not guilty, the defendant is released from the jurisdiction of the court and becomes a free person.

Judges cannot impose just any sentence. There are many factors that restrict sentencing decisions. The U.S. Constitution’s Eighth Amendment prohibiting cruel and unusual punishments and various statutory provisions limit judges. Judges are guided by prevailing philosophical rationales, by organizational considerations, and by presentence investigation reports. They also are influenced by their own personal characteristics. Presentence investigation reports are used in the federal system and in the majority of states to help judges determine appropriate sentences.

Currently, five general types of punishment are in use in the United States: fines, probation, intermediate punishments, imprisonment, and death. Intermediate punishments are more restrictive than probation but less restrictive and less costly than imprisonment. **Probation** is a sentence in which the offender is retained in the community under the supervision of a probation agency rather than being incarcerated. Probation is the most frequently imposed criminal sentence in the United States. As long as a judge imposes one or a combination of the five punishments and the sentence length and type are within statutory limits, the judge is free to set any sentence.

**bail** Usually a monetary guarantee deposited with the court that is supposed to ensure that the suspect or defendant will appear at a later stage in the criminal justice process.

**preliminary hearing** A pretrial stage used in about one-half of all states and only in felony cases. Its purpose is for a judge to determine whether there is probable cause to support the charge or charges imposed by the prosecutor.

**grand jury** Generally a group of 12 to 23 citizens who meet in closed sessions to investigate charges coming from preliminary hearings or to engage in other responsibilities. A primary purpose of the grand jury is to determine whether there is probable cause to believe that the accused committed the crime or crimes.

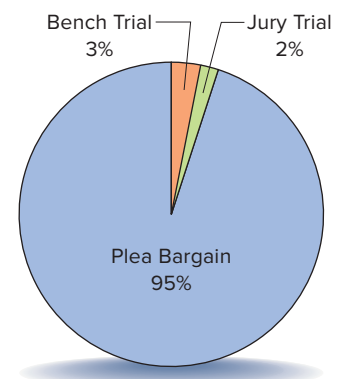
**information** A document that outlines the formal charge(s) against a suspect, the law(s) that have been violated, and the evidence to support the charge(s).

**arraignment** A pretrial stage; its primary purpose is to hear the formal information or indictment and to allow the defendant to enter a plea.

**plea bargaining** The practice whereby the prosecutor, the defense attorney, the defendant, and—in many jurisdictions—the judge agree on a specific sentence to be imposed if the accused pleads guilty to an agreed-upon charge or charges instead of going to trial.

**bench trial** A trial before a judge without a jury.

**FIGURE 1.2** Criminal Case Dispositions



# Careers in Criminal Justice

## Law Enforcement/Security

BATF Agent  
Border Patrol Agent  
Campus Police Officer  
Crime Prevention Specialist  
Criminal Investigator  
Criminal Profiler  
Customs Officer  
Deputy Sheriff  
Deputy U.S. Marshal  
Drug Enforcement Officer  
Environmental Protection Agent  
FBI Special Agent  
Federal Agency Investigator  
Fingerprint Technician  
Forensic Scientist  
Highway Patrol Officer  
Immigration and Naturalization Service Officer  
Insurance Fraud Investigator  
Laboratory Technician  
Loss Prevention Officer  
Military Police Officer  
Park Ranger  
Police Administrator  
Police Dispatcher  
Police Officer  
Polygraph Examiner  
Postal Inspector  
Private Investigator  
Secret Service Agent  
State Trooper

## Courts/Legal

Arbitrator  
Attorney General  
Bailiff  
Clerk of Court  
Court Interpreter  
Court Reporter  
District Attorney  
Judge  
Jury Assignment Commissioner  
Jury Coordinator  
Juvenile Magistrate  
Law Clerk  
Law Librarian  
Legal Researcher  
Mediator  
Paralegal  
Public Defender  
Public Information Officer  
Trial Court Administrator  
Victim Advocate

## Teaching/Research

Agency Researcher  
Community College, College, or University Lecturer or Professor

## Corrections/Rehabilitation

Activity Therapy Administrator  
Business Manager  
Case Manager  
Chaplain  
Chemical Dependency Manager  
Child Care Worker  
Children's Services Counselor  
Classification Officer

Client Service Coordinator  
Clinical Social Worker  
Community Liaison Officer  
Correctional Officer  
Dietary Officer  
Drug Court Coordinator  
Field Administrator  
Fugitive Apprehension Officer  
Home Detention Supervisor  
Human Services Counselor  
Job Placement Officer  
Juvenile Detention Officer  
Juvenile Probation Officer  
Mental Health Clinician  
Parole/Probation Officer  
Presentence Investigator  
Prison Industries Superintendent  
Program Officer/Specialist  
Programmer/Analyst  
Psychologist  
Recreation Coordinator  
Rehabilitation Counselor  
Researcher  
Residence Supervisor  
Sex Offender Therapist  
Social Worker  
Statistician  
Substance Abuse Counselor  
Teacher  
Vocational Instructor  
Warden or Superintendent  
Youth Service Worker/Coordinator  
Youth Supervisor

**probation** A sentence in which the offender, rather than being incarcerated, is retained in the community under the supervision of a probation agency and required to abide by certain rules and conditions to avoid incarceration.

**parole** A method of prison release whereby inmates are conditionally released at the discretion of a board or other authority before having completed their entire sentences; can also refer to the community supervision received upon release.

**Appeals** Defendants who are found guilty can appeal their convictions either on legal grounds or on constitutional grounds. Examples of legal grounds include defects in jury selection, improper admission of evidence at trial, and mistaken interpretations of law. Constitutional grounds include illegal search and seizure, improper questioning of the defendant by the police, identification of the defendant through a defective police lineup, and incompetent assistance of counsel.

The appellate court can *affirm* the verdict of the lower court and let it stand; modify the verdict of the lower court without totally reversing it; reverse the verdict of the lower court, which requires no further court action; or reverse the decision and *remand*, or return, the case to the court of original jurisdiction for either a retrial or resentencing.

## Corrections

A defendant sentenced to prison may be eligible for parole (in those jurisdictions that grant parole) after serving a portion of his or her sentence. **Parole** is the conditional release of prisoners before they have served their full sentences. Generally, the decision to grant parole

is made by a parole board. Once offenders have served their sentences, they are released from criminal justice authority.

### THINKING CRITICALLY

1. Do you think the criminal justice system “works” in the United States? Why or why not?
2. What improvements do you think should be made to the criminal justice system?
3. Do you think judges should be limited in the sentences they are allowed to impose? Why or why not?

## Criminal Justice: The Nonsystem

As noted earlier, the many police, court, and corrections agencies of the federal, state, and local governments, taken together, are commonly referred to as the criminal justice system. However, the depiction of criminal justice—or, more specifically, of the interrelationships and inner workings of its various components—as a “system” may be inappropriate and misleading for at least two reasons.

First, there is no single “criminal justice system” in the United States. Rather, as noted earlier, there is a loose confederation of many independent criminal justice agencies at all levels of government. This loose confederation is spread throughout the country with different, sometimes overlapping, jurisdictions. Although there are some similarities among many of those agencies, there are also significant differences. The only requirement they all share, a requirement that is the basis for their similarities, is that they follow procedures permitted by the U.S. Constitution.

Second, if a **system** is thought of as a smoothly operating set of arrangements and institutions directed toward the achievement of common goals, one is hard-pressed to call the operation of criminal justice in the United States a system. Instead, because there is considerable conflict and confusion among different agencies of criminal justice, a more accurate representation may be that of a criminal justice “nonsystem.”

For example, police commonly complain that criminal offenders who have been arrested after weeks or months of time-consuming and costly investigation are not prosecuted or are not prosecuted vigorously enough. Police often maintain that prosecutors are not working with them or are making their jobs more difficult than necessary. Prosecutors, however, often gripe about shoddy police work. Sometimes, they say that they are unable to prosecute a crime because of procedural errors committed by the police during the investigation or the arrest.

Even when a criminal offender is prosecuted, convicted, and sentenced to prison, police often argue that the sentence is not severe enough to fit the seriousness of the crime, or they complain when the offender is released from prison after serving only a portion of his or her sentence. In such situations, police frequently argue that the courts or the correctional agencies are undermining their efforts by putting criminals back on the streets too soon.

Conflicts between the courts and corrections sometimes occur when judges continue to impose prison sentences on criminal offenders, especially so-called petty offenders, even though the judges know that the prisons are under court orders to reduce overcrowding.

In addition, there is a mostly separate process for juvenile offenders. Criminal justice officials frequently complained that their jobs were made more difficult because of the practice, which used to be common in many states, of sealing juvenile court records. That practice withheld juvenile court records from the police, prosecutors, and judges even though the records may have been relevant and helpful in making arrests, prosecuting criminal cases, and determining appropriate sentences. Today, formerly confidential juvenile court records are made available to a wide variety of individuals, including prosecutors, law enforcement officers, social service personnel, school authorities, victims, and the public. However, access is not necessarily unlimited or automatic. Access still may be restricted to certain parts of the record and may require a court order.<sup>9</sup> A rationale for concealing juvenile court records is to prevent, as much as possible, the labeling of juvenile offenders as delinquents, which could make them delinquents. (Labeling theory is discussed in Chapter 3.)

In short, rather than operating together as a system, agencies of criminal justice in the United States generally operate independently of one another, each agency often causing problems for the others. Such conflicts may not be entirely undesirable, however, because

**system** A smoothly operating set of arrangements and institutions directed toward the achievement of common goals.

### myth

The agencies that administer criminal justice in the United States form a unified system: the criminal justice system.

### fact

There is no single “criminal justice system” in the United States. Instead, there is a loose confederation of many independent criminal justice agencies at all levels of government. Moreover, instead of operating together as a system, agencies of criminal justice in the United States interact but generally operate independently of one another, each agency often causing problems for the others.





### Criminal Justice System Needs Improvement

A 2018 national survey found that 76% of registered voters believe the U.S. criminal justice system needs significant improvements, while only 21% believe “it’s working pretty well as it is.” Sixty-eight percent of Republicans, 78% of Independents, 80% of Democrats, and 80% of women believe the system needs significant improvements.

Source: Robert Blizzard, “National Poll Results,” Public Opinion Strategies, January 25, 2018, accessed June 3, 2019, <https://www.politico.com/f/?id=00000161-2ccc-da2c-a963-efff82be0001>.

**crime control model** One of Packer’s two models of the criminal justice process. Politically, it reflects traditional conservative values. In this model, the control of criminal behavior is the most important function of criminal justice.

**due process model** One of Packer’s two models of the criminal justice process. Politically, it embodies traditional liberal values. In this model, the principal goal of criminal justice is at least as much to protect the innocent as it is to convict the guilty.

they occur in a context of checks and balances by which the courts ensure that the law is enforced according to constitutional principles.

### THINKING CRITICALLY

1. What do you think are some of the positive aspects of having a criminal justice nonsystem?
2. What do you think are some of the disadvantages of having a criminal justice nonsystem?

## Two Models of Criminal Justice

In his influential 1968 book entitled *The Limits of the Criminal Sanction*, legal scholar Herbert Packer describes the criminal justice process in the United States as the outcome of competition between two value systems.<sup>10</sup> Those two value systems, which represent two ends of a value continuum, are the basis for two models of the operation of criminal justice—the crime control model and the due process model. Figure 1.3 depicts this continuum. From a political standpoint, the **crime control model** reflects traditional conservative political values, while the **due process model** embodies traditional liberal political values.<sup>11</sup> Consequently, when politically conservative values are dominant in society, as they have been for most of the past 50 years, the principles and policies of the crime control model seem to dominate the operation of criminal justice. During more politically liberal periods, such as the 1960s and 1970s, and the eight years of the Obama administration (2008–2016), the principles and policies of the due process model seem to direct criminal justice activity.

The models are ideal types, neither of which corresponds exactly to the actual day-to-day practice of criminal justice. Rather, they both provide a convenient way to understand and discuss the operation of criminal justice in the United States. In practice, the criminal justice process represents a series of conflicts and compromises between the value systems of the two models. In the following sections, we describe Packer’s two models in detail.

**FIGURE 1.3** Two Models of the Criminal Justice Process



### The Crime Control Model

In the crime control model, the control of criminal behavior is by far the most important function of criminal justice. Although the means by which crime is controlled are important in this view (illegal means are not advocated), they are less important than the ultimate goal of control. Consequently, the primary focus of this model is on the efficiency of the criminal justice process. Advocates of the crime control model want to make the process more efficient—to move cases through the process as quickly as possible and to bring them to a close. Packer characterizes the crime control model as “assembly-line justice.” Bohm (one of your authors) has called it “McJustice.”<sup>12</sup> To achieve “quick closure” in the processing of cases, a premium is placed on speed and finality. Speed requires that cases be handled informally and uniformly; finality depends on minimizing occasions for challenge, that is, appeals.

To appreciate the assembly-line or McJustice metaphors used by Packer and Bohm and to understand how treating cases uniformly speeds up the process and makes it more efficient, consider the way that McDonald’s sells billions of hamburgers. When you order a Big Mac from McDonald’s, you know exactly what you are going to get. All Big Macs are the same because they are made uniformly. Moreover, you can get a Big Mac in a matter of seconds most of the time. However, what happens when you order something different or something not already prepared, such as a hamburger with ketchup only? Your order is taken, and you are asked to stand to the side because your special order will take a few

minutes. Your special order has slowed down the assembly line and reduced efficiency. This happens in criminal justice, too! If defendants ask for something special, such as a trial, the assembly line is slowed and efficiency is reduced.

As described in Chapter 8, even when criminal justice is operating at its best, it is a slow process. The time from arrest to final case disposition can typically be measured in weeks or months. If defendants opt for a jury trial, which is their right in most felony cases, the cases are handled formally and are treated as unique; no two cases are the same in their circumstances or in the way they are handled. If defendants are not satisfied with the outcome of their trials, then they have the right to appeal. Appeals may delay by years the final resolution of cases.

To increase efficiency—meaning speed and finality—crime control advocates prefer plea bargaining. As described previously and as you will see in Chapter 8, plea bargaining is an informal process that is used instead of trial. Plea bargains can be offered and accepted in a relatively short time. Also, cases are handled uniformly because the mechanics of a plea bargain are basically the same; only the substance of the deal differs. In addition, with successful plea bargains, there is no opportunity for challenge; there are no appeals. Thus, plea bargaining is the perfect mechanism for achieving the primary focus of the crime control model: efficiency.

The key to the operation of the crime control model is “a presumption of guilt.” In other words, advocates of this model assume that if the police have expended the time and effort to arrest a suspect and the prosecutor has formally charged the suspect with a crime, then the suspect must be guilty. Why else would police arrest and prosecutors charge? Although the answers to that question are many (see the discussions in Chapters 7 and 8 of the extralegal factors that influence police and prosecutorial behavior), the fact remains that a presumption of guilt is accurate most of the time. That is, most people who are arrested and charged with a crime or crimes are, in fact, guilty. A problem—but not a significant one for crime control advocates—is that a presumption of guilt is not accurate all the time; miscarriages of justice do occur (see the discussion in Chapter 4). An equally important problem is that a presumption of guilt goes against one of the oldest and most cherished principles of American criminal justice—that a person is considered innocent until proven guilty.

Reduced to its barest essentials and operating at its highest level of efficiency, the crime control model consists of an administrative fact-finding process with two possible outcomes: a suspect’s exoneration or the suspect’s guilty plea.

## The Due Process Model

Advocates of the due process model, by contrast, reject the informal fact-finding process as definitive of factual guilt. They insist instead on formal, adjudicative fact-finding processes in which cases against suspects are heard publicly by impartial trial courts. In the due process model, moreover, the factual guilt of suspects is not determined until the suspects have had a full opportunity to discredit the charges against them. For those reasons, Packer characterizes the due process model as “obstacle-course justice.”

What motivates this careful and deliberate approach to the administration of justice is the realization that human beings sometimes make mistakes. The police sometimes arrest the wrong person, and prosecutors sometimes charge the wrong person. Thus, contrary to the crime control model, the demand for finality is low in the due process model, and the goal is at least as much to protect the innocent as it is to convict the guilty. Indeed, for due process model advocates, it is better to let a guilty person go free than it is to wrongly convict and punish an innocent person.

The due process model is based on the doctrine of legal guilt and the presumption of innocence. According to the **doctrine of legal guilt**, people are not to be held guilty of



Elaine Thompson/AP Photo

Gary Ridgway, the so-called Green River Killer, was allowed to plead guilty to 48 counts of murder in exchange for helping authorities find some of his victims’ remains. The plea bargain allowed him to escape the death penalty. He was sentenced to 48 consecutive life sentences without parole instead. *Was the plea bargain in this case justified? Why or why not?*

**doctrine of legal guilt** The principle that people are not to be held guilty of crimes merely on a showing, based on reliable evidence, that in all probability they did in fact do what they are accused of doing. Legal guilt results only when factual guilt is determined in a procedurally regular fashion, as in a criminal trial, and when the procedural rules designed to protect suspects and defendants and to safeguard the integrity of the process are employed.

crimes merely on a showing, based on reliable evidence, that in all probability they did in fact do what they are accused of doing. In other words, it is not enough that people are factually guilty in the due process model; they must also be legally guilty. Legal guilt results only when factual guilt is determined in a procedurally regular fashion, as in a criminal trial, and when the procedural rules, or due process rights, designed to protect suspects and defendants and to safeguard the integrity of the process are employed. The conditions of legal guilt—that is, procedural, or due process, rights—are described in Chapter 4. They include:

- Freedom from unreasonable searches and seizures.
- Protection against double jeopardy.
- Protection against compelled self-incrimination.
- A speedy and public trial.
- An impartial jury of the state and district where the crime occurred.
- Notice of the nature and cause of the accusation.
- The right to confront opposing witnesses.
- Compulsory process for obtaining favorable witnesses.
- The right to counsel.
- The prohibition of cruel and unusual punishment.

In short, in the due process model, factual guilt is not enough. For people to be found guilty of crimes, they must be found *both* factually and legally guilty.

Due process advocates champion this obstacle-course model of justice because they are skeptical about the ideal of equality on which U.S. criminal justice is supposedly based. They recognize that there can be no equal justice where the kind of trial a person gets, or whether he or she gets a trial at all, depends substantially on how much money that person has. It is assumed that in an adversarial system of justice (as described in Chapter 8 and employed in the United States), an effective defense is largely a function of the resources that can be mustered on behalf of the accused. It also is assumed that there are gross inequalities in the financial means of criminal defendants. Most criminal defendants are indigent or poor, and because of their indigence, they are frequently denied an effective defense. Although procedural safeguards, or conditions of legal guilt, cannot by themselves correct the inequity in resources, they do provide indigent defendants, at least theoretically, with a better chance for justice than they would receive without them.

Fundamentally, the due process model defends the ideal of personal freedom and its protection. The model rests on the assumption that preventing tyranny by the government and its agents is the most important function of the criminal justice process.

## Crime Control versus Due Process

As noted earlier, the model that dominates criminal justice policy in the United States at any particular time depends on the political climate. Until the election of Barack Obama—America’s first African American president—in 2008, the United States was in the midst of a prolonged period—beginning in the mid-1970s—during which politically conservative values dominated the practice of criminal and juvenile justice. Thus, it should come as no surprise that the crime control model of criminal justice more closely resembled the actual practice of criminal and juvenile justice in the United States for the roughly three-and-one-half decades prior to Obama’s first election. Before the mid-1970s, at the time Packer wrote and published his book, politically liberal values and, thus, the principles and policies of the due process model directed the operation of criminal and juvenile justice. However, because neither model ever completely represents the practices of criminal and juvenile justice, many elements of the crime control model were evident prior to the mid-1970s, as were many elements of the due process model during the next three-and-one-half decades.

During Obama’s eight years in office, his administration’s liberal political values seemed to tilt criminal justice policy toward principles and policies associated with the due process model of criminal justice. That said, any transformations made during Obama’s eight years were relatively modest because, for one thing, criminal justice policies that have been entrenched for decades are hard to change, and, for another, the U.S. Supreme Court, arguably the key institution when it comes to criminal justice policy, had a conservative

majority that was not particularly sympathetic to Obama's goals. So even though there was some shift to due process model policies and practices during the Obama administration, many elements of the crime control model remained.

With the 2016 election of Donald Trump, whatever Obama administration transformations in criminal justice policy toward the due process model are likely to be rolled back as conservative political values and the crime control model of criminal justice return to prominence, as Packer's model of criminal justice predicts. If President Trump has the opportunity to appoint two more conservative justices to replace the elderly, liberal-leaning Justices Ginsburg and Breyer following his appointment and the Senate's confirmation of Justices Neil Gorsuch and Brett Kavanaugh, politically conservative values and crime control model principles and policies likely will guide criminal justice policy in the United States for decades to come.

### THINKING CRITICALLY

1. What do you think are some of the fundamental problems with the crime control model? What are the benefits of this model?
2. What do you think are some of the fundamental problems with the due process model? What are the benefits of this model?

## Costs of Criminal Justice

Each year in the United States, an enormous amount of money is spent on criminal justice at the federal, state, and local levels. In 2016 (the latest year for which figures were available), a total of \$284 billion was spent on civil and criminal justice. Nearly one-half of the \$284 billion was spent on police protection, about 20% on judicial and legal services, and approximately 30% on corrections. Table 1.3 shows the breakdown of spending among

**TABLE 1.3** Costs of Criminal Justice

In 2016, federal, state, and local governments spent \$284 billion in direct expenditures for the criminal and civil justice systems.

POLICE PROTECTION	In Millions (\$)
68% Local	94,207
11% States	15,003
21% Federal	28,886
100%	138,096
JUDICIAL/LEGAL SERVICES	
38% Local	23,431
37% States	22,826
25% Federal	14,892
100%	61,149
CORRECTIONS	
33% Local	28,977
59% States	49,040
8% Federal	6,952
100%	84,969

Note: Detail may not add to 100% because of rounding.

Source: Shelley Hyland, "Justice Expenditure and Employment Extracts, 2016 (preliminary)," Bureau of Justice Statistics, U.S. Department of Justice, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6728>, filename jeee16t01.csv (date of version: 11/7/2019).



the three main segments of the criminal justice system and among the federal, state, and local levels. The \$284 billion spent on civil and criminal justice in 2016 represents approximately \$880 for every resident of the United States (\$440 for police, \$176 for judicial and legal services, and \$264 for corrections). The \$284 billion was an increase of about 7% from 2012 and approximately 10% from 2009.<sup>13</sup>

Criminal justice is primarily a state and local function; state and local governments spent about 80% of the 2016 total. Note that state and local governments share the costs of criminal justice by making police protection primarily a local function and corrections primarily a state function. In 2016, local governments spent 68% of the total spent on police protection, while state governments spent 58% of the total spent on corrections. The expense of judicial and legal services was evenly divided between state and local governments, with each level of government spending about 40% of the total on those services.

Although the bulk of government spending on criminal justice is at the state and local levels, the federal government uses its expenditures strategically to influence criminal justice policy at the other levels of government. For example, the federal government develops and tests new approaches to criminal justice and crime control. It then encourages state and local criminal justice agencies to duplicate effective programs and practices by awarding monetary grants to interested and willing agencies. Grants also are awarded to state and local criminal justice agencies to implement programs that address the federal government's crime control priorities, such as its emphasis on violent and drug-related crimes. In 2016, the federal government spent about 20% of the total expenditures on criminal and civil justice.

Also noteworthy is that despite the billions of dollars spent on criminal and civil justice at the state and local levels, as a percentage of all government expenditures, the amount spent on criminal justice represents only a tiny fraction—about 6% (2.7% for police protection, about 2.2% for corrections, and 1.3% for judicial and legal services). In other words, only about 6 cents of every state and local tax dollar are spent on criminal justice. Include federal tax dollars, and only about 4 cents of every tax dollar are spent on criminal justice—an amount that has remained relatively unchanged for approximately 25 years. Thus, compared with expenditures on other government services, such as social insurance, national defense, international relations, interest on debt at the federal level, public welfare, education, health and hospitals, and interest on debt at the state and local levels, spending on criminal justice remains a relatively low priority—a point apparently not missed by the American public.<sup>14</sup>

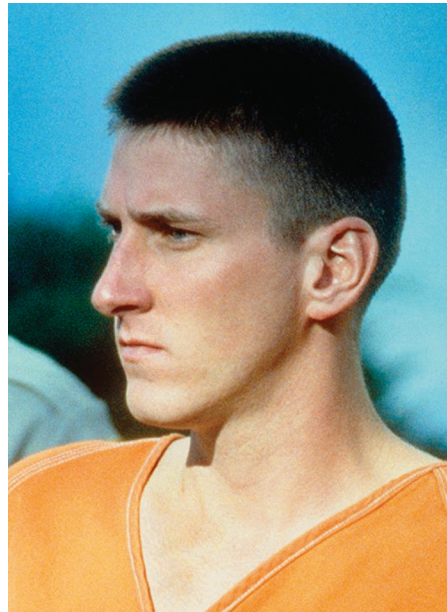
For at least four decades, public opinion polls have shown that more than half of all Americans believe that too little money is spent on crime control. Very few people think that too much is being spent.<sup>15</sup> What is not clear, however, because no data are available, is whether those people who believe more money should be spent to fight crime are willing to pay higher taxes to provide that money.

The data presented so far in this section provide a general overview of the aggregate costs of criminal justice in the United States. However, they do not reveal the expenses of individual-level justice, which vary greatly. On the one hand, administering justice to people who commit capital or death-eligible crimes costs, on average, between \$1.4 and \$7 million per case (the cost of the entire process in 2015 dollars); extraordinary cases can cost much more. For example, the state of Florida reportedly spent \$10 million to administer justice to serial murderer Ted Bundy in 1989, and the federal government spent more than \$100 million to execute mass murderer Timothy McVeigh in 2001.<sup>16</sup>

On the other hand, the routine crimes processed daily cost much less. A better idea of the costs of justice in more typical cases comes from an examination of the costs of each stage of the local criminal justice process. The results of such a study are presented in the following narrative.<sup>17</sup> A 49-year-old white male—let's call him Joe—was arrested in Orlando, Florida, in October 2011, for possession of cocaine. According to the arresting officer's report, Joe was observed running a stop sign. The officer pulled him over and asked for his driver's license. While doing so, the officer noticed 40 to 50 boxes of cigar packs on the passenger floorboard of the vehicle. The officer asked him if the cigar packs were his, and he said they were. The officer then asked Joe to step out of his car, and he complied. The officer asked Joe whether he had anything illegal on his person such as guns and drugs, and Joe stated, "No." The officer asked Joe if he could search



Bettmann/Contributor/Getty Images

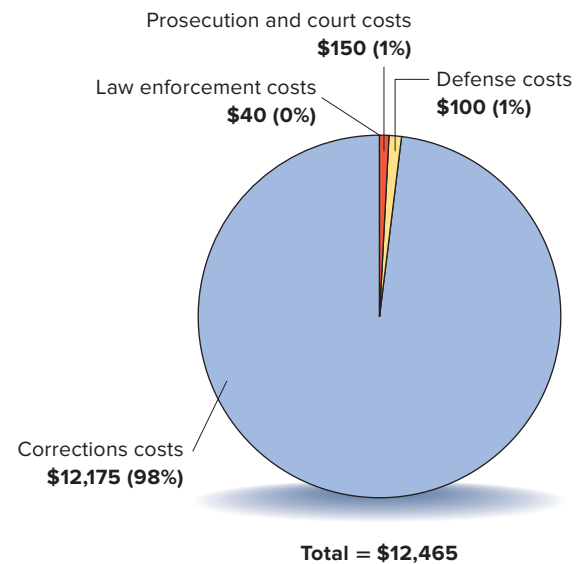


Ralf-Finn Hestoft/Corbis/Getty Images

The state of Florida reportedly spent \$10 million to administer justice to serial murderer Ted Bundy (left) in 1989, and the federal government spent more than \$100 million to execute mass murderer Timothy McVeigh (right) in 2001. *Were the executions worth the expense? Why or why not?*

him, and Joe consented. The officer found no contraband on Joe's person. The officer then conducted a computer check of Joe's license, and it was valid. The officer returned Joe's license and told him that he was not going to issue a traffic citation. The officer then asked Joe whether there was anything illegal in his vehicle such as guns and drugs, and Joe stated, "No." The officer asked Joe if he could search his vehicle, and Joe stated, "Yeah, that's fine." The officer opened a box of cigars and found a square hard white substance that, based on the officer's training and work experience, appeared to be crack cocaine. The officer secured Joe with handcuffs and continued to search the vehicle. The officer lifted a stack of papers on the front passenger seat and discovered four pieces of a hard white substance that also appeared to be crack cocaine. The officer field-tested a sample of the suspected drug, and the test revealed that the substance was cocaine. The officer placed Joe under arrest for cocaine possession. Joe requested that his parents be contacted so they could pick up his car. Joe's father responded to the scene and took possession of the car. The officer transported Joe to the county jail for booking. Joe subsequently pled guilty and was sentenced to 4 months in jail. The jail sentence was rather modest considering the incident was Joe's 33rd offense on his lengthy rap sheet, which included arrests for burglary, grand theft, reckless driving, robbery, criminal mischief, possession of drug paraphernalia, dealing in stolen property, contempt of court, and violation of probation. The criminal justice-related costs to society for this crime were approximately \$12,465. As shown in Figure 1.4, the bulk of the costs—98% of the total in this case—were incurred by corrections. The expenses to the police, defense, prosecution, and court were minor in comparison.

**FIGURE 1.4** Total Costs of the Orlando, Florida, Cocaine Possession Case by Specific Criminal Justice Functions



### THINKING CRITICALLY

1. Do you think more money needs to be spent on criminal justice? Why or why not?
2. Were resources well spent in the case of the offender convicted of cocaine possession? Why or why not?

**myths** Beliefs based on emotion rather than analysis.

## Myths About Crime and Criminal Justice

A major purpose of this book is to expose and correct misconceptions the American public has about crime and criminal justice. Much of the public's understanding of crime and criminal justice is wrong; it is based on myths. **Myths** are "simplistic and distorted beliefs based upon emotion rather than rigorous analysis" or "at worst . . . dangerous falsifications."<sup>18</sup> More specifically, myths are "credible, dramatic, socially constructed representation[s] of perceived realities that people accept as permanent, fixed knowledge of reality while forgetting (if they were ever aware of it) [their] tentative, imaginative, creative, and perhaps fictional qualities."<sup>19</sup> For example, during the Middle Ages in Europe, people commonly believed that guilt or innocence could be determined through *trial by ordeal*. The accused might be required to walk barefoot over hot coals, hold a piece of red-hot iron, or walk through fire. The absence of any injury was believed to be a sign from God that the person was innocent. Although we now may wonder how such a distorted and simplistic belief could have been taken as fact and used to determine a person's guilt or innocence, people did not consider the belief a myth during the time that it was official practice. The lesson to be learned from this example is that a belief that is taken as fact at one time may in retrospect be viewed as a myth. In this book, we attempt to place such myths about crime and criminal justice in perspective.<sup>20</sup>

Throughout this text, we present generally accepted beliefs about crime and the justice system that can be considered myths because they can be contradicted with facts. In some instances, it can be demonstrated that the perpetuation and acceptance of certain myths by the public, politicians, and criminal justice practitioners have contributed to the failure to significantly reduce predatory criminal behavior and to increase peace. It is also possible that acceptance of these myths as accurate representations of reality or as facts results in the waste of billions of dollars in the battle against crime.

During the Middle Ages, Holy Roman Emperor Otto III married the King of Aragon's daughter, who fell in love with a count of the court. When the count refused her advances, the emperor's wife accused him of making an attempt on her honor. The scene shows the count's wife attempting to prove his innocence by trial by fire (a red-hot rod in her hand). When she was not burned, the count's innocence was proved and the emperor's wife was burned alive for making the false accusation. *How could people believe that guilt or innocence could be proven in this way?*



The Justice of the Emperor Otto: Trial by Fire, 1471–73 (oil on panel) (see also 61050)/Bouts, Dirck (c. 1415–75)/Musees Royaux des Beaux-Arts de Belgique, Brussels, Belgium/Bridgeman Images



## SUMMARY

### 1. Describe how the type of crime routinely presented by the media compares with crime routinely committed.

Crime presented by the media is usually more sensational than crime routinely committed.

### 2. Identify institutions of social control, and explain what makes criminal justice an institution of social control.

Institutions of social control include the family, schools, organized religion, the media, the law, and criminal justice. Such institutions attempt to persuade people to abide by the dominant values of society. Criminal justice is restricted to persuading people to abide by a limited range of social values, the violation of which constitutes crime.

### 3. Summarize how the criminal justice system responds to crime.

The typical criminal justice response to the commission of a crime involves the following: investigation, arrest (if the investigation is successful), booking, the formal charging of the suspect, an initial appearance, a preliminary hearing (for a felony), either indictment by a grand jury followed by arraignment or arraignment on an information, either a plea bargain or a trial, sentencing, possible appeal, and punishment (if the defendant is found guilty).

### 4. Explain why criminal justice in the United States is sometimes considered a nonsystem.

Criminal justice in the United States is sometimes considered a nonsystem for two major reasons. First, there is no single system but, instead, a loose confederation of more than 50,000 agencies on federal, state, and local levels. Second, rather than being a smoothly operating set of arrangements and institutions, the agencies of the criminal justice system interact with one another but generally operate independently, often causing problems for one another.

### 5. Point out major differences between Packer's crime control and due process models.

From a political standpoint, the crime control model of criminal justice reflects traditional conservative values, while the due process model embodies traditional liberal values. In the crime control model, the control of criminal behavior is by far the most important function of criminal justice. Consequently, the primary focus of this model is on efficiency in the operation of the criminal justice process. The goal of the due process model, in contrast, is at least as much to protect the innocent as it is to convict the guilty. Fundamentally, the due process model defends the ideal of personal freedom and its protection and rests on the assumption that the prevention of tyranny on the part of government and its agents is the most important function of the criminal justice process.

### 6. Describe the costs of criminal justice in the United States, and compare those costs among federal, state, and local governments.

An enormous amount of money is spent each year on criminal justice in the United States. In 2016, federal, state, and local governments spent a total of \$284 billion on police protection (\$138 billion), judicial/legal services (\$61 billion), and corrections (\$85 billion). The bulk of government spending on criminal justice is at the state and local levels, but the federal government spends money strategically to influence criminal justice policy at the other levels of government.

### 7. Explain how myths about crime and criminal justice affect the criminal justice system.

The acceptance and perpetuation of myths, or simplistic beliefs based on emotion rather than rigorous analysis, can harm the criminal justice system by contributing to the failure to reduce crime and to the waste of money in the battle against crime.

## KEY TERMS

statute of limitations 4  
institution of social control 7  
jurisdiction 7  
misdemeanor 7  
felony 7  
arrest 7  
booking 10

defendant 10  
initial appearance 10  
summary trial 10  
probable cause 10  
bail 11  
preliminary hearing 11  
grand jury 11

information 11  
arraignment 11  
plea bargaining 11  
bench trial 11  
probation 12  
parole 12

system 13  
crime control model 14  
due process model 14  
doctrine of legal guilt 15  
myths 20

## REVIEW QUESTIONS

- What is the fundamental problem with the types of crime routinely presented by the media?
- What was the most frequent type of call for police service in Portland, Oregon during the period examined in the text (see Table 1.2)?
- What is an *institution of social control*?
- Why is criminal justice sometimes considered society's "last line of defense"?
- What three agencies make up the criminal justice system?
- What is a *jurisdiction*?
- What is the difference between a *misdemeanor* and a *felony*?

8. What is the difference between an *arrest* and a *booking*?
9. Who decides whether to charge a suspect with a crime?
10. What is a *defendant*, and when does a suspect become a defendant?
11. What is the difference between an *initial appearance* and a *preliminary hearing*?
12. Define *bench trial*, *summary trial*, *bail*, *grand jury*, *arraignment*, *plea bargaining*, and *parole*.
13. What is meant by *probable cause*?
14. Why are the conflicts between the different agencies of criminal justice not entirely undesirable?

15. Why does Packer use the metaphors of *assembly-line justice* and *obstacle-course justice* to characterize his crime control and due process models of criminal justice?
16. What are the bases (i.e., the presumptions or doctrines) of Packer's crime control and due process models of criminal justice?
17. Which levels of government—federal, state, local—bear most of the costs of criminal justice in the United States?
18. What is a lesson to be learned from myths about crime and criminal justice?

## IN THE FIELD

1. **Crime and the Media** Watch a local television station's broadcast of the evening news for one or more days and record the crimes reported. Then obtain from your local police department a copy of the log of calls for police service for one of those days. Compare the crimes reported on the nightly news with the calls for police service. Describe similarities and differences between the two different sources of crime information. What have you learned?
2. **Costs of Crime** Follow a criminal case in your community and determine the costs of processing the case. You will have to contact the police, the prosecutor, the defense attorney, the judge, and

other relevant participants. Remember to consider both monetary and psychological costs. After you have determined the costs, decide whether you think they were justified. Defend your answer.

3. **Costs of Justice** Only about 6% of state and local spending is for criminal justice. By contrast, states and localities spend more for education and public welfare and about the same for health care and hospitals. Divide into groups. Using the preceding information, debate within your group whether states and localities spend enough of their budgets on criminal justice. Share group results with the class.

## ON THE WEB

1. **Criminal Justice in Other Countries** Learn about the criminal justice systems of other countries by visiting the U.S. Justice Department's website, *The World Factbook of Criminal Justice Systems*, at <http://bjs.ojp.usdoj.gov/content/pub/html/wfcj.cfm>.

2. **FBI's Most Wanted** Access the FBI's "Top Ten Most Wanted Fugitives" at [www.fbi.gov/wanted/top10/](http://www.fbi.gov/wanted/top10/). Read the descriptions of the fugitives. Write a report describing the characteristics they share. Also, try to determine what unique features qualify these fugitives, and not others, for the list.

## CRITICAL THINKING EXERCISES

### PLEA BARGAINING

1. Shirley Smith pleaded guilty to third-degree murder after admitting she had put rat poison in drinks her husband ingested at least 12 times during the course of their 13-month marriage. Sentenced to a maximum of 20 years in prison, she would have to serve at least 10 years before she could be considered for parole. The prosecutor defended the plea bargain against much public criticism. The prosecutor claimed that the costs of a murder trial and subsequent appeals were not paramount. However, the prosecutor did acknowledge that the case could have been the most expensive in county history, that it exhausted his entire \$2 million budget for the fiscal year, and that it required a tax increase to cover the costs. As an elected official, the prosecutor attempted to seek justice while exercising a sense of fiscal responsibility.
  - a. Do you think the prosecutor made the correct decision to plea bargain? Defend your answer.
  - b. In potentially expensive cases, should the prosecutor seek a referendum on the matter (to determine whether residents are willing to pay additional taxes to try a defendant rather than accept a plea bargain)?

### PRISON VERSUS REHABILITATION

2. The city council of a midsize East Coast city is locked in a debate concerning how to address the rising incidence of violent crime. John Fogarty, one of the most influential people in the city, is pushing for more police and stiffer penalties as the solution. He is the leader of a group that is proposing the construction of a new prison. Another group thinks putting more people in prison is not the answer. They believe that early intervention, education, and prevention programs will be most effective. There is not enough money to fund both sides' proposals.
  - a. Which side would you support? Why?
  - b. What do you think is the number-one crime problem in your community? List ways of dealing with that problem. What would be the most cost-effective way to lower the rate of that crime?



## ● NOTES

1. Eric Levenson, "Larry Nassar Apologizes, Gets 40 to 125 Years for Decades of Sexual Abuse," *CNN*, February 5, 2018. Accessed March 10, 2019, <https://www.cnn.com/2018/02/05/us/larry-nassar-sentence-eaton/index.html>; Eric Levenson, "Larry Nassar Sentenced to up to 175 Years in Prison for Decades of Sexual Abuse," *CNN*, January 24, 2018. Accessed March 10, 2019, <https://www.cnn.com/2018/01/24/us/larry-nassar-sentencing/index.html>.
2. John Bacon, "'They have made change': 1 Year After Carnage in Parkland, Where Key Figures Are Now," *USA Today*, February 10, 2019. Accessed March 8, 2019, <https://www.usatoday.com/story/news/nation/2019/02/10/parkland-one-year-after-shooting-where-key-figures-are-now/2721798002/>; Laurel Wamsley, "Florida State Attorney Will Seek Death Penalty for Parkland Shooting Suspect," *NPR*, March 13, 2018. Accessed March 8, 2019, <https://www.npr.org/sections/thetwo-way/2018/03/13/593206185/florida-ag-will-see-death-penalty-for-parkland-shooting-suspect>; "One Year Since Parkland, Some Stoneman Douglas Students Still Don't Feel Safe," *CBS NEWS*, February 14, 2019. Accessed March 8, 2019, <https://www.cbsnews.com/news/parkland-shooting-anniversary-one-year-later-how-far-have-we-come/>.
3. Jason Hanna, Dakin Andone, Keith Allen, and Steve Almasy, "Alleged Shooter at Texas High School Spared People He Liked, Court Document Says," *CNN*, May 19, 2018. Accessed March 10, 2019, <https://www.cnn.com/2018/05/18/us/texas-school-shooting/index.html>.
4. Dakin Andone, "Man Accused of Carrying Out Shooting at Maryland Newspaper Indicted," *CNN*, July 21, 2018. Accessed March 10, 2019, <https://www.cnn.com/2018/07/21/us/jarrold-ramos-indicted-capital-gazette-shooting/index.html>; "Man Accused of Killing 5 in Capital Gazette Shooting Gets Insanity Plea Deadline Extension," *WJLA*, January 23, 2019. Accessed March 10, 2019, <https://wjla.com/news/local/capital-gazette-newspaper-shooting-suspect-gets-insanity-plea-deadline-extension>.
5. Eric Levenson and Aaron Cooper, "Bill Cosby Sentenced to 3 to 10 Years in Prison for Sexual Assault," *CNN*, September 26, 2018. Accessed March 9, 2019, <https://www.cnn.com/2018/09/25/us/bill-cosby-sentence-assault/index.html>.
6. Ashley May and Josh Hafner, "Pittsburg Synagogue Shooting: What We Know, Questions That Remain," *USA Today*, October 29, 2018. Accessed March 8, 2019, <https://www.usatoday.com/story/news/nation-now/2018/10/29/pittsburgh-synagogue-shooting-what-we-know/1804878002/>; Dakin Adone, Jason Hanna, Joe Sterling, and Paul P. Murphy, "Hate Crime Charges Filed in Pittsburgh Shooting That Left 11 Dead," *CNN*, October 29, 2018. Accessed March 8, 2019, <https://www.cnn.com/2018/10/27/us/pittsburgh-synagogue-active-shooter/index.html>.
7. Alexander Smith, Pete Williams, Andrew Blankstein, Alastair Jamieson, and Corky Siemaszko, "Mass Shooting at Borderline Bar and Grill in Thousand Oaks, California," *NBC NEWS*, November 8, 2018. Accessed March 8, 2019, <https://www.nbcnews.com/news/us-news/shooting-reported-borderline-bar-grill-thousand-oaks-california-n933831>.
8. Our thanks to Garrett Johnson of the Police Foundation's Police Data Initiative for his help with these data.
9. Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: 2006 National Report* (Washington DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, March 2006), 109, accessed January 5, 2009, [www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/NR2006.pdf](http://www.ojjdp.ncjrs.gov/ojstatbb/nr2006/downloads/NR2006.pdf).
10. Herbert Packer, *The Limits of the Criminal Sanction* (Stanford, CA: Stanford University Press, 1968).
11. See, for example, Walter B. Miller, "Ideology and Criminal Justice Policy: Some Current Issues," *Journal of Criminal Law and Criminology* 64 (1973): 141–62.
12. Robert M. Bohm, "'McJustice': On the McDonaldization of Criminal Justice," *Justice Quarterly* 23 (2006): 127–46.
13. Unless otherwise indicated, the data in this section are from Shelley Hyland, "Justice Expenditure and Employment Extracts, 2016 (preliminary)," Bureau of Justice Statistics, U.S. Department of Justice, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6728>, filename jee16t01.csv (date of version: 11/7/2019); Tracey Kyckelhahn, "Justice Expenditure and Employment Extracts, 2012 (preliminary)," Bureau of Justice Statistics, U.S. Department of Justice, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=4335>, filename jee12t01.csv (date of version: 2/26/2015); Tracey Kyckelhahn, "Justice Expenditure and Employment in the United States, 2009 (preliminary)," Bureau of Justice Statistics, U.S. Department of Justice, <http://www.bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=4335>, filename: cjee0901.csv (date of version: 5/30/2012).
14. Calculated from data in Kyckelhahn, "Justice Expenditure and Employment Extracts, 2012"; "Federal Budget Receipts and Outlays," in *The 2011 Statistical Abstract* (U.S. Census Bureau), Table 467, accessed January 26, 2011, [www.census.gov/compendia/statab/2011/tables/11s0467.pdf](http://www.census.gov/compendia/statab/2011/tables/11s0467.pdf); "State and Local Governments—Revenues and Expenditure by Function: 2006 and 2007," in *The 2011 Statistical Abstract* (U.S. Census Bureau), Table 434, accessed January 26, 2011, [www.census.gov/compendia/statab/2011/tables/11s0434.pdf](http://www.census.gov/compendia/statab/2011/tables/11s0434.pdf); Kristen A. Hughes, "Justice Expenditure and Employment in the United States, 2003," in *Bureau of Justice Statistics Bulletin* (Washington, DC: U.S. Government Printing Office, April 2006).
15. Andy Kiersz, "Trump Is Giving a Major Policy Speech—Here's What Americans Think About 13 Major Areas of Federal Spending," *Business Insider*, February 28, 2017. Accessed February 15, 2019, <https://www.businessinsider.com/american-opinion-on-government-spending-and-budget-priorities-2017-2>.
16. Robert M. Bohm, *Deathquest: An Introduction to the Theory and Practice of Capital Punishment in the United States*, 5th ed. (New York: Routledge, 2017), 277.
17. My thanks to Matt Landon for his help in collecting the data.
18. D. Nimmo and J. E. Combs, *Subliminal Politics: Myths and Mythmakers in America* (Englewood Cliffs, NJ: Prentice Hall, 1980), 6.
19. *Ibid.*, 16.
20. Many of the myths presented in this book were taken from the following sources: Robert M. Bohm and Jeffery T. Walker, *Demystifying Crime and Criminal Justice*, 2nd ed. (New York, NY: Oxford University Press, 2013); Jeffrey H. Reiman, *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice*, 7th ed. (Boston: Allyn & Bacon, 2004); Harold E. Pepinsky and Paul Jesilow, *Myths That Cause Crime*, 2nd ed. (Cabin John, MD: Seven Locks, 1985); Kevin N. Wright, *The Great*

*American Crime Myth* (Westport, CT: Greenwood, 1987); also see Robert M. Bohm, "Myths About Criminology and Criminal Justice: A Review Essay," *Justice Quarterly* 4 (1987): 631–42; William Wilbanks, *The Myth of a Racist Criminal Justice System* (Belmont, CA: Wadsworth, 1987); Victor E. Kappeler and Gary W. Potter, *The Mythology of Crime and Criminal Justice*, 4th ed. (Long Grove, IL: Waveland Press, 2005); Jeffrey Reiman and

Paul Leighton, *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice*, 10th ed. (Upper Saddle River, NJ: Pearson, 2012); Samuel Walker, *Sense and Nonsense About Crime, Drugs, and Communities: A Policy Guide*, 7th ed. (Belmont, CA: Wadsworth, 2010). For a discussion of why these myths exist, see Robert M. Bohm, "Crime, Criminal and Crime Control Policy Myths," *Justice Quarterly* 3 (1986): 193–214.

# 2



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## Crime and Its Consequences

### CHAPTER OUTLINE

#### Definitions of Crime

- Social Definitions
- A Legal Definition
- Elements of Crime
- Degrees or Categories of Crime

#### Measurement of Crime

- Crime Statistics
- Crime Rates
- Uniform Crime Reports
- National Incident-Based Reporting System
- National Crime Victimization Surveys
- Self-Report Crime Surveys

#### Costs of Crime

#### Fear of Crime

- What People Fear
- Who Fears Crime
- How People Respond and Should Respond to a Fear of Crime

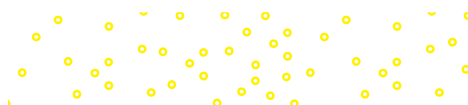
#### Victims of Crime

- Victimization Trends
- Who the Victims Are

### LEARNING OBJECTIVES

After completing this chapter, you should be able to:

1. Distinguish between a social definition and a legal definition of crime, and summarize the problems with each.
2. List the technical and ideal elements of a crime.
3. Identify some of the legal defenses or legal excuses for criminal responsibility.
4. Explain why crime and delinquency statistics are unreliable.
5. Identify the two major sources of crime statistics in the United States.
6. Describe the principal finding of the national crime victimization surveys.
7. Summarize the general finding of self-report crime surveys.
8. Identify the costs of crime.
9. Describe the characteristics of people most likely to fear crime.
10. List the characteristics of people who are the most likely and the least likely to be victims of crime.





## Crime Story

**O**n Saturday morning, October 27, 2018, 46-year-old Robert Bowers (pictured), armed with a Colt AR-15 rifle and three .357 Glock handguns, stormed into the Tree of Life Congregation synagogue in the affluent Squirrel Hill neighborhood of Pittsburgh, Pennsylvania, shouting anti-Semitic slurs and killing 11 worshippers in a 20-minute attack. Two worshippers and four or five officers were injured. The murder victims ranged in age from 54 to 97. Bowers finally surrendered to police officers after suffering multiple gunshot wounds. He told arresting officers that “all these Jews need to die” because they were “committing genocide to my people.”

Bowers previously had posted anti-Semitic rants on social media. On his Gab profile, he claimed Jews were “the children of Satan.” In one post, he accused the organization HIAS, the Hebrew Immigrant Aid Society, of transporting “invaders in that kill our people.” He also posted about several conspiracy theories and his opposition to the migrant caravan, which he believed was being aided by Jews. Approximately four hours before the shooting, he wrote that he was not a Trump voter because Trump was too soft on Jews. He also suggested that President Trump surrounded himself with too many Jews (although he did not use the word Jews but instead used a derogatory term for Jews). In what was likely his last post just minutes before he entered the synagogue, Bowers declared, “I can’t sit by and watch my people get slaughtered. Screw your optics, I’m going in.”

Bowers had a troubled childhood. His mother divorced his father in 1972, when Bowers was less than a year old. She remarried in 1975, but apparently only lived with her new husband for a year. They did not divorce officially until 2004. Bowers’ biological father committed suicide in 1979. He was facing

charges for attempted rape in Squirrel Hill. In 1987, his mother’s second husband was charged in Indiana for molesting two girls, ages 5 and 7. He pleaded guilty and served six years in prison. Bowers dropped out of high school in November of his senior year. He was a mediocre student. In the early 1990s, he got a job delivering baked goods, which he apparently liked. His coworkers, which included a couple of Jewish people, described him as “a guy who liked beer, Hooters, action films and guns, with a bit of an anti-government streak—not as a virulent anti-Semite primed to explode.” Only later did he become a white nationalist and a follower of online right-wing provocateurs, especially Jim Quinn and Jack Corbin (“Pale Horse”). He quit the bakery in 2002, and worked sporadically, including a stint as a long-haul trucker. During this time, he lived with his grandfather and other relatives and shared material online about the Christian Identity movement, which is virulently anti-Semitic. He lived alone in an apartment at the time of the shootings.

Bowers originally was charged with 36 state crimes, including 11 homicides and 13 counts of ethnic intimidation. He also was charged with 29 federal crimes, including 11 federal hate-crimes and 11 counts of using a firearm to kill. The state charges will “remain in abeyance” while the federal case proceeds, but the state attorney did say that he would seek the death penalty. U.S. Attorney Scott Brady stated that he, too, would seek the death penalty. President Trump indicated his support for the penalty, when he opined, “When people do this, they should get the death penalty.” Trump also told reporters, “If there was an armed guard inside the temple, they would have been able to stop him.”

On January 29, 2019, a federal grand jury indicted Bowers on 44 charges, including more hate crimes. On February 11, 2019,



Pennsylvania Department of Transportation/AP Photos

Bowers pleaded not guilty in federal court to all charges. His lawyer, prominent death penalty attorney Judy Clarke, hopes that the case can be resolved without a trial. Clarke is known for negotiating plea deals that helped some of the country’s most infamous killers avoid execution. Among her clients were Unabomber Ted Kaczynski, Atlanta Olympics bomber Eric Rudolph, and Arizona shooter Jared Lee Loughner, who killed 6 people and wounded 13 others, including U.S. Representative Gabrielle Giffords. She also represented Boston marathon bomber Dzhokhar Tsarnaev, who was sentenced to death. At the arraignment, U.S. Attorney Brady had not announced yet whether he would seek the death penalty.

In 2017, anti-Semitic incidents in the United States increased by nearly 60%. According to the Anti-Defamation League (ADL), in 2017, nearly 2,000 cases of harassment, vandalism, or physical assault were committed against Jews and Jewish institutions. In a statement, the ADL asserted, “It is simply unconscionable for Jews to be targeted during worship on a Sabbath morning and unthinkable that it would happen in the United States of America in this day and age.” The attack on the Tree of Life Congregation synagogue in 2018 has



been designated as the deadliest anti-Semitic hate crime in U.S. history.

Among the topics addressed in this chapter are hate-crime statistics, fear of crime, and

victims of crime. All three topics are exemplified by the case of Robert Bowers and the Tree of Life synagogue attack. Hate crimes produce both victims and fear. Why do people

commit hate crimes? Why are hate crimes against Jews increasing? What can criminal justice do about hate crimes? What more needs to be done about hate crimes?

## Definitions of Crime

The object of criminal justice in the United States is to prevent and control crime. Thus, to understand criminal justice, we must understand crime. An appropriate definition of crime, however, remains one of the most critical unresolved issues in criminal justice today. One problem is that many dangerous and harmful behaviors are not defined as crimes, while many less dangerous and less harmful behaviors are. We begin, then, by examining how crime is defined and the problems with defining what a crime is.

### Social Definitions

The broadest definitions of crime are social definitions. A typical social definition of crime is behavior that violates the norms or social mores of society—or, more simply, antisocial behavior. A **norm** or **social more** is any standard or rule regarding what human beings should or should not think, say, or do under given circumstances. Because social definitions of crime are broad, they are less likely than narrower definitions to exclude behaviors that ought to be included. Nevertheless, there are several problems with social definitions of crime.

First, norms or social mores vary from group to group within a single society. There is no uniform definition of antisocial behavior. Take, for example, the acts involved in gambling, prostitution, abortion, and homosexual behavior. As current public debates indicate, there is much controversy in the United States over whether those acts should be crimes. Even with acts about which there seems to be a consensus, such as murder and rape, there is no agreement on what constitutes such acts. For example, if a patient dies from a disease contracted from a doctor who did not wash his or her hands before examining the patient, has the doctor committed murder? Or, if a man has forcible sexual intercourse with a woman against her will but, before the act, at the woman's request, puts on a condom so that the woman will not get a sexually transmitted disease, has the man committed rape? Those examples illustrate the difficulty of determining what, in fact, constitutes antisocial behavior, let alone crime.

Second, norms or social mores are always subject to interpretation. Each norm's or social more's meaning has a history. Consider abortion, for example. For some people, abortion is the killing of a fetus or a human being. For other people, abortion is not killing because, for them, human life begins at birth and not at conception. For the latter group, the abortion issue concerns women's freedom to control their own bodies. For the former group, abortion constitutes an injustice to the helpless.

Third, norms or social mores change from time to time and from place to place. For example, the consumption of alcohol was prohibited in the United States during the 1920s and early 1930s but is only regulated today. Until the passage of the Harrison Act in 1914, it was legal in the United States to use opiates such as opium, heroin, and morphine without a doctor's prescription. Such use is prohibited today.

Casino gambling is allowed in some states but forbidden in other states. Prostitution is legal in a few counties in Nevada but illegal in the rest of the United States. Prior to the mid-1970s, a husband could rape his wife with impunity in all but a handful of states. Today, laws in every state prohibit a husband from raping or assaulting his wife.

### A Legal Definition

In an attempt to avoid the problems with social definitions of crime, a legal definition of crime is used in criminal justice in the United States. A typical **legal definition of crime** is



#### Crime

The word “crime” is from the Latin *crimen*, meaning “accusation” or “fault.”

Source: *Webster's New Twentieth Century Dictionary of the English Language Unabridged* (Parsippany, NJ: Williams Collins, 1980).

**norm or social more** Any standard or rule regarding what human beings should or should not think, say, or do under given circumstances.

**legal definition of crime** An intentional violation of the criminal law or penal code, committed without defense or excuse and penalized by the state.





ALPA PROD/Shutterstock

More and more states are legalizing casino gambling as a means of generating income. *Is this a desirable trend? Why or why not?*

**overcriminalization** The prohibition by the criminal law of some behaviors that arguably should not be prohibited.

- It is illegal for a driver to be blindfolded while operating a vehicle in Alabama.
- In California, it is illegal to trip horses for entertainment, to possess bear gall bladders, or to peel an orange in your hotel room.
- It is illegal to throw shoes at weddings in Colorado.
- In Connecticut, it is illegal to walk across the street on your hands.
- Women in Florida may be fined for falling asleep under a hair dryer, as can the salon owner.
- Idaho state law makes it illegal for a man to give his sweetheart a box of candy weighing less than 50 pounds.
- It is illegal to take a bath in the wintertime in Indiana.
- Kisses may last for as much as, but no more than, 5 minutes in Iowa.
- In Michigan a woman isn't allowed to cut her own hair without her husband's permission.
- It is illegal to slurp soup in New Jersey.
- Beer and pretzels can't be served at the same time in any bar or restaurant in North Dakota.
- Violators in Oklahoma can be fined, arrested, or jailed for making ugly faces at a dog.
- The state law of Pennsylvania prohibits singing in the bathtub.
- In South Dakota, a woman over 50 is not allowed to go outside and strike up a conversation with a married man older than 20.
- In Tennessee, it is illegal to shoot any game other than whales from a moving automobile.
- In Texas, it is illegal to take more than three sips of beer at a time while standing.
- It is an offense in Washington State to pretend your parents are rich.<sup>1</sup>

**nonenforcement** The failure to routinely enforce prohibitions against certain behaviors.

**undercriminalization** The failure to prohibit some behaviors that arguably should be prohibited.

this: an intentional violation of the criminal law or penal code, committed without defense or excuse and penalized by the state. The major advantage of a legal definition of crime, at least on the surface, is that it is narrower and less ambiguous than a social definition of crime. If a behavior violates the criminal law, then by definition it is a crime. However, although a legal definition eliminates some of the problems with social definitions of crime, a legal definition of crime has problems of its own.

First, some behaviors prohibited by the criminal law arguably should not be. This problem of **overcriminalization** arises primarily in the area of so-called victimless crimes. Lists of victimless crimes typically include gambling, prostitution involving consenting adults, homosexual acts between consenting adults, and the use of some illegal drugs, such as marijuana. Ultimately, whether those acts should or should not be prohibited by criminal law depends on whether they are truly victimless—an issue we will not debate here. Perhaps less controversial are some of the following illegal behaviors:

A second problem with a legal definition of crime is that for some behaviors prohibited by criminal law, the law is not routinely enforced. **Nonenforcement** is common for many white-collar and government crimes. It is also common for blue laws, for example, those that require stores and other commercial establishments to be closed on Sundays. Many jurisdictions in the United States have blue laws, or they did until recently. The principal problem with the nonenforcement of prohibitions is that it causes disrespect for the law. People come to believe that because criminal laws are not routinely enforced, there is no need to routinely obey them.

A third problem with a legal definition of crime is the problem of **undercriminalization**. That is, some behaviors that arguably should be prohibited by criminal law are not. Have you ever said to yourself that there ought to be a law against whatever it is you are upset about? Of course, most of the daily frustrations that people claim ought to be crimes probably should not be. Some people argue, however, that some very harmful and destructive actions or inactions that are not criminal should be. Examples include the government allowing employers (generally through the nonenforcement of laws) to maintain unsafe working conditions that cause employee deaths and injuries and corporations' intentional production of potentially hazardous products to maximize profits.<sup>2</sup>

## Elements of Crime

A legal definition of crime is the basis of criminal justice in the United States. The legal definition of crime provided earlier in this chapter, however, is only a general definition. It does not specify all the elements necessary to make a behavior a crime. Technically and ideally, a crime has not been committed unless all seven of the following elements are present:<sup>3</sup>

1. Harm
2. Legality
3. *Actus reus*
4. *Mens rea*
5. Causation
6. Concurrence
7. Punishment

Only in a technical and ideal sense must all seven elements be present. In practice, a behavior is often considered a crime when one or more of the elements of crime are absent. We will examine each of the seven elements in turn, indicating exceptions to the technical and the ideal where relevant.

**Harm** For crime to occur, there must be an external consequence, or **harm**. A mental or emotional state is not enough. Thus, thinking about committing a crime or being angry enough to commit a crime, without acting on the thought or the anger, is not a crime.

The harm may be physical or verbal. Physically striking another person without legal justification is an example of an act that does physical harm. An example of an act that does verbal harm is a threat to strike another person, whether or not the threat is carried out. Writing something false about another person that dishonors or injures that person is a physical harm called *libel*. The spoken equivalent of libel is called *slander*.

Whether the legal element of harm is present in all crimes is sometimes questioned. Some crimes, such as gambling, prostitution, marijuana consumption, and certain consensually committed sexual acts such as sodomy, have come to be called “victimless crimes” by those who argue that only those people involved in these behaviors are harmed, if at all. Other people maintain that the participants, their families, and the moral fabric of society are jeopardized by such behavior. In short, there is considerable debate as to whether so-called victimless crimes really are harmless.

**Legality** The element of **legality** has two aspects. First, the harm must be legally forbidden for a behavior to be a crime. Thus, violations of union rules, school rules, religious rules, or any rules other than those of a political jurisdiction may be “wrong,” but they are not crimes unless they are also prohibited by criminal law. Furthermore, rude behavior may be frowned upon, but it is not criminal.

Second, a criminal law must not be retroactive, or *ex post facto*. An *ex post facto law* (1) declares criminal an act that was not illegal when it was committed, (2) increases the punishment for a crime after it is committed, or (3) alters the rules of evidence in a particular case after the crime is committed. The first meaning is the most common. The U.S. Constitution (Article I, Section 10.1) forbids *ex post facto* laws.

**Actus reus** The Latin term *actus reus* refers to criminal conduct—specifically, intentional or criminally negligent (reckless) action or inaction that causes harm. Crime involves not only things people do but also things they do not do. If people do not act in situations in which the law requires them to act, they are committing crimes. For example, parents are legally required to provide their children with adequate food, clothing, and shelter. If parents



Sacramento Bee/Contributor/Getty Images

Ever since criminal sanctions were established for illegal drug use, some have argued for decriminalization by elimination or reduction of criminal penalties for possession or distribution of certain drugs. Do you agree with this argument? Why or why not?

**harm** The external consequence required to make an action a crime.

**legality** The requirement (1) that a harm must be legally forbidden for the behavior to be a crime and (2) that the law must not be retroactive.

**ex post facto law** A law that (1) declares criminal an act that was not illegal when it was committed, (2) increases the punishment for a crime after it is committed, or (3) alters the rules of evidence in a particular case after the crime is committed.

**actus reus** Criminal conduct—specifically, intentional or criminally negligent (reckless) action or inaction that causes harm.

**mens rea** Criminal intent; a guilty state of mind.

**negligence** The failure to take reasonable precautions to prevent harm.

fail to provide those necessities—that is, if they fail to act when the law requires them to—they are committing a crime.

**Mens rea** The Latin term *mens rea* refers to criminal intent or a guilty state of mind. It is the mental aspect of a crime. Ideally, criminal conduct is limited to intentional or purposeful action or inaction and not to accidents. In practice, however, reckless actions or *negligence* may be criminal. **Negligence** is the failure to take reasonable precautions to prevent harm.

In some cases, offenders lack the capacity (sometimes called competence) to form *mens rea*. If they do not have that capacity, they are not to be held responsible for their criminal conduct. If they have a diminished capacity to form *mens rea*, they are to be held less than fully responsible. In other cases, offenders who have the capacity to form *mens rea* are not held responsible for their crimes or are held less responsible for them, either because they did not have *mens rea* when they acted or because there were extenuating circumstances when they did act with *mens rea*.

**Legal Defenses for Criminal Responsibility** In the United States, an offender is not considered responsible or is considered less responsible for an offense if he or she, for example, (1) acted under duress, (2) was underage, (3) was insane, (4) acted in self-defense or in defense of a third party, (5) was entrapped, or (6) acted out of necessity. Those conditions are legal defenses or legal excuses for criminal responsibility.

If a person did not want to commit a crime but was forced or coerced to do so against his or her will, he or she committed the crime under **duress** and is generally excluded from criminal liability. Suppose that an intruder held a gun to the head of a loved one and threatened to kill that person if you did not rob a local convenience store and return immediately to give the intruder the money. If you committed the robbery to save the life of your loved one, you would probably not be held legally responsible for the crime because you committed it under duress. There were extenuating circumstances when you acted with *mens rea*. To prevent all offenders from claiming duress, the burden of proof is placed on the defendant.

Another legal excuse or legal defense against criminal responsibility is being underage. Although the age at which a person is considered legally responsible for his or her actions varies by jurisdiction, in most American jurisdictions, a child under the age of 7 is not held responsible for a crime. It is assumed that a child under 7 years of age does not have the capacity to form *mens rea*. A child under 7 years of age is considered a *legal infant* or of *legal nonage*. Such a child is protected by criminal law but not subject to it. Thus, if a 6-year-old child picks up a shotgun and shoots his or her parent, the child is unlikely to be charged with a crime. However, if a parent abuses a child, the criminal law protects the child by holding the abusive parent responsible for his or her actions.

In most developed countries, children under 18 years of age are not considered entirely responsible for their criminal acts. It is assumed that their capacity to form *mens rea* is not fully developed. A special category of offense called **juvenile delinquency** has been created for those children. In most American jurisdictions, the upper age limit for juvenile delinquency is 18. The lower limit is usually 7. Criminal law generally treats anyone who is 18 or older as an adult. However, the upper age limit of juvenile delinquency is lower in some jurisdictions and sometimes varies with the sex of the offender. In some jurisdictions there is a legal borderland between the ages of 16 and 18. An offender in that age range may be treated as a juvenile or as an adult, depending on the severity of the offense. In some cases, an offense is considered heinous enough for a court to certify a juvenile, regardless of age, as an adult and to treat him or her accordingly. The subject of juvenile delinquency is discussed more fully in Chapter 13.

A third legal defense or legal excuse from criminal responsibility is insanity. **Insanity** is a legal term, not a medical one. It refers to mental or psychological impairment or retardation. Like many of the other legal defenses or excuses, an insanity defense rests on the assumption that someone who is insane at the time of a crime lacks the capacity, or has diminished capacity, to form *mens rea*. Thus, that person either should not be held responsible or should be held less responsible for a given crime.

In most western European nations, legal insanity is determined solely by the judgment and testimony of medical experts. British and American law, by contrast, provide guidelines for judges, juries, and medical experts to follow in determining whether a defendant is legally

**duress** Force or coercion as an excuse for committing a crime.



#### Legal Infancy

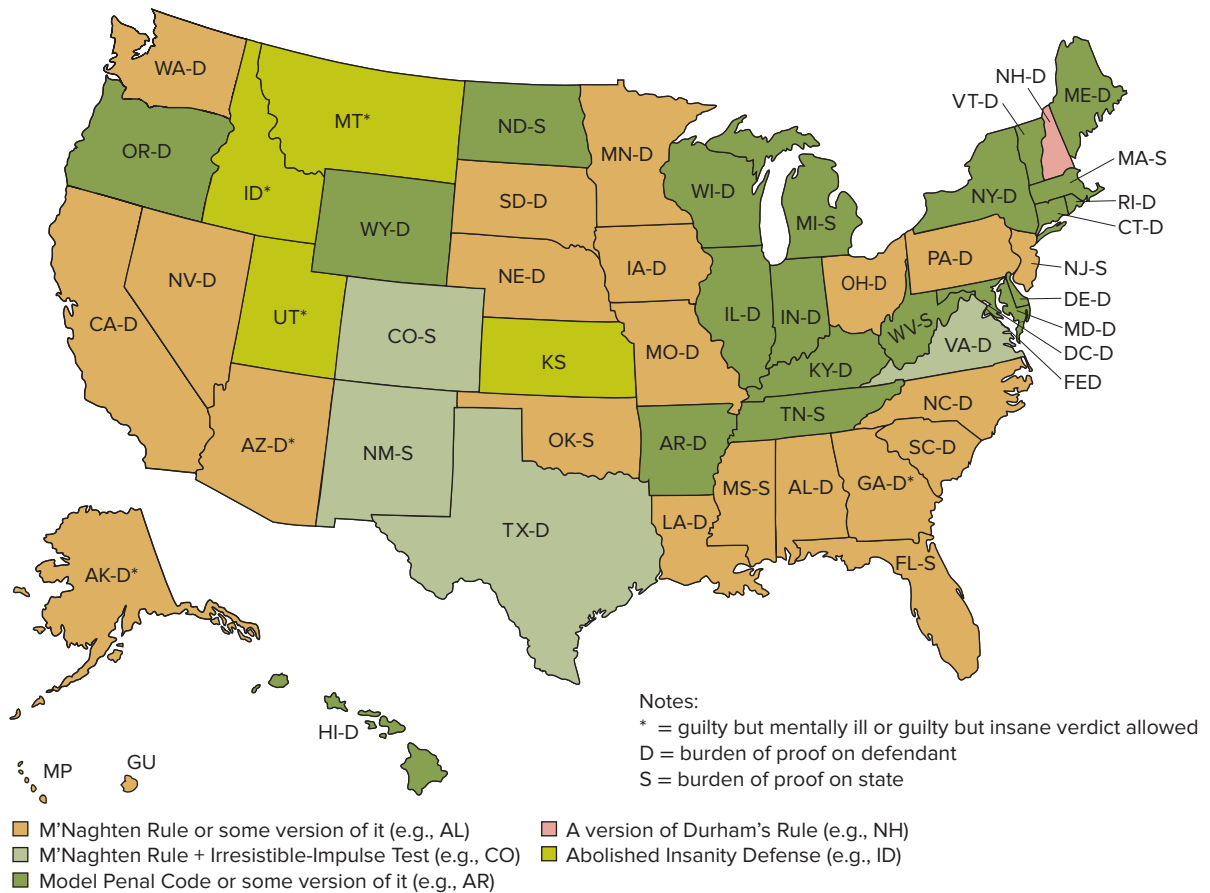
On July 29, 2010, an Indianapolis, Indiana, 4-year-old boy picked up a loaded .45-caliber handgun that had been left on the kitchen table and shot and killed a 3-year-old girl in front of his siblings. Because of his age, he was not charged or held criminally responsible because, legally, he could not form *mens rea*, or the intent to kill.

Source: "Police: 4-Year-Old Boy Kills 3-Year-Old Playmate with Gun," accessed December 29, 2010, [www.foxnews.com/us/2010/07/30/police-year-old-boy-kills-year-old-playmate-gun/](http://www.foxnews.com/us/2010/07/30/police-year-old-boy-kills-year-old-playmate-gun/).

**juvenile delinquency** A special category of offense created for youths who, in most U.S. jurisdictions, are persons between the ages of 7 and 18.

**insanity** Mental or psychological impairment or retardation as a defense against a criminal charge.



**FIGURE 2.1** Insanity Tests by State

Source: "The Insanity Defense Among the States," accessed February 16, 2019, <http://criminal.findlaw.com/criminal-procedure/the-insanity-defense-among-the-states.html>.

insane. The oldest of those guidelines is the M'Naghten rule, or some variation of it, which was first used in an English trial in 1843 and is now used in 21 states (see Figure 2.1).

Under the M'Naghten rule:

Every man is to be presumed to be sane, and . . . to establish a defense on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing what was wrong.<sup>4</sup>

In short, according to the M'Naghten rule, which is also referred to as the "right-and-wrong test," a person is legally insane if, at the time of the commission of the act, he or she (1) did not know the nature and quality of the act or (2) did not know that the act was wrong. The burden of proof is on the defendant.

One problem with the M'Naghten rule is the difficulty of determining what a person's state of mind was at the time of the commission of the criminal act. The rule also has been criticized for its ambiguity. What is a "defect of reason," and by whose standards is the act a product of defective reason? Does "disease of the mind" refer to organic diseases, non-organic diseases, or both? What does it mean to "know" the nature and quality of the act? Does it mean an intellectual awareness, an emotional appreciation, or both? Does "wrong" mean legally wrong, morally wrong, or both?

Perhaps the most serious problem with the M'Naghten rule is that it does not address the situation of a defendant who knew the difference between right and wrong but was unable to control his or her actions. To remedy that problem, four states have adopted the



### Daniel M'Naghten

Daniel M'Naghten was acquitted of the murder of a person he had mistaken for his real target, Sir Robert Peel, then the Prime Minister of Great Britain. M'Naghten claimed that he was delusional at the time of the killing. Go to <https://h2o.law.harvard.edu/collages/19272> and research the M'Naghten case.

*Explain the insanity defense in that case and give your opinion about the court's ruling.*

In a 1994 trial in Virginia, attorneys for Lorena Bobbitt, who had sliced off her husband's penis with a kitchen knife while he was sleeping, successfully used the *irresistible-impulse* defense against charges of malicious wounding. She claimed that she had been subjected to physical and sexual abuse for years during her marriage. She was acquitted of the crime. Was Bobbitt's act uncontrollable or uncontrolled? Defend your answer.



Jeffrey Markowitz/Contributor/Getty Images



Jeffrey Markowitz/Contributor/Getty Images

*irresistible-impulse* or *control test* and use it in conjunction with the M'Naghten rule (see Figure 2.1). In those states, a defense against conviction on grounds of insanity is first made by using the M'Naghten rule. If the conditions of M'Naghten are met, the irresistible-impulse or control test is applied. If it is determined that the defendant knew that he or she was doing wrong at the time of the commission of the criminal act but nevertheless could not control his or her behavior, the defendant is entitled to an acquittal on the grounds of insanity. The major problem with the irresistible-impulse or control test is distinguishing between behavior that is uncontrollable and behavior that is simply uncontrolled.

The test for insanity used by another 21 states is the *substantial-capacity test* of the American Law Institute's Model Penal Code or some version of it. Under that test, a defendant is not to be found guilty of a crime "if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law." By using the term *substantial capacity*, the test does not require that a defendant be completely unable to distinguish right from wrong. The test has been criticized for its use of the ambiguous terms *substantial capacity* and *appreciate*. It also does not resolve the problem of determining whether behavior is uncontrollable or uncontrolled.

A final insanity test used only in New Hampshire is a version of Durham's Rule and is referred to as "the product test." The *product test* is a two-prong test in which the defense must show that (1) the defendant suffered from a mental disease or defect and (2) the murder was a product of that disease or defect. A problem with the product test is that neither the New Hampshire legislature nor New Hampshire courts have defined the terms *mental disease* and *defect*, leaving interpretation entirely to juries.

Following the public uproar over the 1982 acquittal of John Hinckley, the would-be assassin of President Ronald Reagan, on the grounds that he was legally insane, five states, including three states that had otherwise abolished the insanity defense, enacted "guilty but insane" or "guilty but mentally ill" laws (see Figure 2.1). Defendants who are found guilty but insane generally receive sentences that include psychiatric treatment until they are cured. Then they are placed in the general prison population to serve the remainder of their sentences.

States are free to abolish insanity as a defense. The first state to do so was Montana in 1979. Idaho, Utah, and Kansas are the only other states that have eliminated any possibility of a criminal defendant being found not guilty by reason of insanity.<sup>5</sup> Figure 2.1 shows the insanity test used by each state (and Washington, DC), as well as which party, either the defendant or the state, has the burden of proof, and the states that allow guilty but mentally ill or guilty but insane verdicts. The federal government uses the M'Naghten rule, and the defendant has the burden of proof.<sup>6</sup>

A fourth legal defense or legal excuse from criminal responsibility is self-defense or the defense of a third party. Generally, people are relieved of criminal responsibility if they use only the amount of force reasonably necessary to defend themselves or others against an apparent threat of unlawful and immediate violence. When it comes to the protection of property, however, the use of force is much more limited. Deadly force is not allowed, but

### myth

The availability of an insanity defense allows dangerous offenders to escape conviction and go free.

### fact

Defendants found not guilty by reason of insanity rarely go free. Generally, they are confined to a mental institution until they are deemed by the committing court or some other judicial body to be sane or no longer dangerous. Research shows that the insanity defense is raised only in 0.3% of cases, and a finding of insanity is made in just 0.01% of cases.

Source: Erik Roskes, "Are Mass Killers 'Crazy?'" *The Crime Report*, <https://thecrimereport.org/2012/09/18/2012-09-are-mass-killers-crazy/>, September 18, 2012, accessed February 16, 2019.