

# CJ

REALITIES  
and CHALLENGES

FOURTH EDITION

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# CJ

## REALITIES AND CHALLENGES

4TH EDITION

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CJ: REALITIES AND CHALLENGES, FOURTH EDITION

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This book is printed on acid-free paper.

1 2 3 4 5 6 7 8 9 LWI 24 23 22 21 20

ISBN 978-1-260-81380-7 (bound edition)

MHID 1-260-81380-0 (bound edition)

ISBN 978-1-260-24101-3 (loose-leaf edition)

MHID 1-260-24101-7 (loose-leaf edition)

Portfolio Manager: *Erika Lo*

Marketing Manager: *Nancy Baudean*

Content Project Managers: *Danielle Clement, Katie Reuter*

Buyer: *Sandy Ludovissy*

Design: *Debra Kubiak*

Content Licensing Specialist: *Lorraine Buczek*

Cover Image: *Davis Police Department*

Compositor: *SPi Global*

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#### Library of Congress Cataloging-in-Publication Data

Names: Masters, Ruth, author.

Title: CJ : realities and challenges / Ruth Masters [and six others].

Description: 4th edition. | New York, NY : McGraw-Hill Education, [2021] |

Includes bibliographical references and index.

Identifiers: LCCN 2019044813 (print) | LCCN 2019044814 (ebook) | ISBN

9781260813807 (paperback) | ISBN 9781260813777 (ebook)

Subjects: LCSH: Criminal justice, Administration of--United States. |

Criminal justice, Administration of--Study and teaching (Higher)--United States.

Classification: LCC HV9950 .C495 2021 (print) | LCC HV9950 (ebook) | DDC

364.973--dc23

LC record available at <https://lccn.loc.gov/2019044813>

LC ebook record available at <https://lccn.loc.gov/2019044814>

The Internet addresses listed in the text were accurate at the time of publication. The inclusion of a website does not indicate an endorsement by the authors or McGraw-Hill Education, and McGraw-Hill Education does not guarantee the accuracy of the information presented at these sites.

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# A Note from the Author Team

As both practitioners and academics, we have endeavored to write a compelling, contemporary, and fact-based account of vital American institutions. We understand that this course is faculty's first chance to engage students in a meaningful exposure to the ideals of the American criminal justice system. *CJ: Realities and Challenges, Fourth Edition*, translates the passion that we feel in the classroom into a learning program that nourishes students' enthusiasm for the field while dispelling widely held myths.

*CJ: Realities and Challenges, Fourth Edition*, encourages students to think critically about how the American criminal justice system operates in practice. Recognizing the myths and interpreting the facts underlying the system lead to an appreciation of its complexities. Students who succeed in this course will emerge with a realistic understanding of the system and of the opportunities that await them if they should choose to pursue a career in criminal justice.

OBSERVE → INVESTIGATE → UNDERSTAND

## A Critical Thinking Approach to Criminal Justice

*CJ: Realities and Challenges*, Fourth Edition, takes a critical thinking approach to examining traditional and emerging issues and topics in criminal justice. A three-part framework—Observe, Investigate, Understand—asks students to:

**OBSERVE** the core principles underlying the criminal justice system.

**INVESTIGATE** how these foundational principles are applied in the real world.

**UNDERSTAND** how and why these principles and practices are still evolving.



### 6 Policing Operations

OBSERVE → INVESTIGATE → UNDERSTAND

After reading this chapter, you should be able to:

- Identify the principal policing roles.
- Compare the various policing strategies.
- Describe the different jobs in policing.
- Explain how police departments strive to maximize their resources.
- Identify the factors that shape public opinion about the police.
- Compare the service needs of diverse populations.

Each chapter opens with a series of learning objectives tied to this framework. These goals are explored in the chapter using vivid examples to reinforce student learning. At the end of each chapter, this same framework is used to recap key concepts and

## OBSERVE → INVESTIGATE → UNDERSTAND

### Review

#### Identify the principal policing roles.

- A major part of the workload of police is maintaining order.
- Police engage in law enforcement when they enforce criminal law and apprehend lawbreakers.
- Service activities are nonenforcement actions performed on an as-needed basis.

#### Compare the various policing strategies.

- In preventive patrol, officers are assigned to randomly drive or walk around an area.
- Problem-oriented policing focuses on discovering the underlying causes of problems and encouraging police to find innovative solutions to solve those problems.
- Community-oriented policing emphasizes reducing crime and disorder by involving residents in the job of policing.
- Aggressive order maintenance entails that police focus on minor public order offenses that affect residents' quality of life.

#### Describe the different jobs in policing.

- The rookie police officer quickly learns the realities of police work while working under the guidance of a training officer.
- Patrol officers are the first individuals to respond to a call for service.
- A follow-up investigation occurs after a patrol officer documents the facts of the crime.
- Police are the primary public safety agency in charge of enforcing traffic laws.

- Communications coordinates the performance of law enforcement activities.

- Custody is the incarceration of parties either accused or convicted of a crime.

- Forensics is the application of scientific knowledge and methods to criminal and civil investigations and legal procedures, including criminal trials.

#### Explain how police departments strive to maximize their resources.

- Departments use geographic information systems (GIS) technology to produce detailed descriptions of crime occurrences and to analyze the relationships between variables such as location and time. This information helps police know how to respond to an incident.

- CompStat is a computerized information system that integrates information from crime maps across the community for department leaders' review. This information helps police administrators decide how to allocate their resources.

- Crime analysis can be helpful in reducing the pool of possible suspects, thereby making investigation more efficient.

#### Identify the factors that shape public opinion about the police.

- High-profile incidents of police brutality affect public opinion about the police.
- Because their experiences with police have not been as positive, racial and ethnic minorities tend to have lower opinions of the police than do Whites.

conclusions. Students revisit chapter-specific learning objectives in Connect Criminal Justice, where all activities are linked specifically to these learning outcomes.

The **OBSERVE → INVESTIGATE → UNDERSTAND** framework helps students make logical connections between the principles and the practices of criminal justice. As a case in point, in Chapter 6, “Policing Operations,” students learn about the varied tactics of community policing, including foot patrol. Reading the opening vignette, students **OBSERVE** the challenge faced by police in upholding the right to free speech while keeping the peace. The chapter narrative then guides students to **INVESTIGATE** effective policing strategies, which may include foot patrol. This discussion leads students to **UNDERSTAND** the difficulties law enforcers face in their efforts to prevent crime, as well as the varied consequences of the strategies they choose to employ. In these ways, the **OBSERVE → INVESTIGATE → UNDERSTAND** pedagogy actively involves students in making connections and exploring ideas that support learning.

# Probing the Myths and the Realities of Criminal Justice

Another main goal of this text is to erase rampant misconceptions about the criminal justice system. We created the **MYTH/REALITY** feature to reinforce the text's real-world basis. Integrated throughout the chapters, **MYTH/REALITY** selections challenge students to reflect critically on their own beliefs and to develop an understanding of the way the system actually works. Each entry is connected to a broader discussion that uses supporting data to explain a key principle. Among the persistent myths we investigate are:

- Older adults are more likely to be victimized than people in any other age group. (Chapter 2, "Types of Crime")
- Police must always read suspects their *Miranda rights*. (Chapter 7, "Legal and Special Issues in Policing")
- Drug offenders are treated leniently by the criminal justice system. (Chapter 10, "Sentencing")
- Juvenile crime rates are skyrocketing. (Chapter 15, "Juvenile Justice")

OBSERVE → INVESTIGATE → UNDERSTAND

## Reality-Relevant Special Features That Reinforce the Text's Framework

*CJ: Realities and Challenges*, Fourth Edition, offers an array of special-feature boxes that highlight and reinforce the *Observe, Investigate, Understand* framework:

- **Matters of Ethics** explores moral dilemmas and problems that may arise in various criminal justice scenarios and settings; see, for

example, Chapter 8's selection, "Expert Witnesses: The Good, the Bad, and the Criminal," and Chapter 11's example, "Making Money on Prisoners."

- **A Case in Point** links key text concepts to actual events and cases.
- **A Global View** compares American justice to international justice.
- **Disconnects** explores the gap between the intent of policies and law and their application in the real world.



### Culture Conflict in Charlottesville, Virginia

On August 11, 2017, hundreds of white nationalists went to Charlottesville, Virginia, to exert their rights to express their feelings about the planned removal of a statue of Confederate general Robert E. Lee. Their demonstration became known as the "Unite the Right" rally, which was believed to be one of the largest gatherings of white nationalists in at least a decade. Many white nationalists had their hands taped ready to do street fighting. They also carried torches and chanted racist slogans and some had pistols and long guns. As the white nationalists marched through the University of Virginia emotions ran high and violent clashes broke out with counter-protesters that included local residents, civil rights leaders, members of church groups, onlookers, and members of anti-fascist groups. Many of these persons carried shields, sticks, and clubs. Both groups sprayed chemicals at each other and hurled rocks and bottles. Chaos continued in Charlottesville through August 12, 2017, when the authorities forced the rally to disband and demanded both sides disperse. Nonetheless, an enraged white nationalist plunged a car into a crowd of counter-protesters causing the death of a young woman named Heather Heyer. Ultimately, the death toll became three when a police helicopter monitoring the event crashed and two state troopers were killed. The Charlottesville tragedy illustrates that sometimes culture conflict can result in major clashes of cultural norms and values resulting in culture wars, violence, and death.



Chip Somodevilla/Getty Images

#### OBSERVE → INVESTIGATE → UNDERSTAND

- How is American society the victim of the Charlottesville tragedy?
- Why does culture conflict sometimes result in culture wars?
- What are some ways in which culture conflict can lead to positive outcomes?
- What are some other cases where culture conflict has resulted in law violation?

**SOURCES:** Joe Helm, "Recounting a Day of Rage, Hate, Violence and Death," *The Washington Post*, August 14, 2017. [https://www.washingtonpost.com/graphics/2017/local/charlottesville-timeline/?utm\\_term=.865ac8de488e](https://www.washingtonpost.com/graphics/2017/local/charlottesville-timeline/?utm_term=.865ac8de488e) (retrieved January 16, 2019); *The Guardian*, "White Supremacist Members Arrested on Riot Charges Tied to Charlottesville," October 24, 2018. <https://www.theguardian.com/us-news/2018/oct/24/white-supremacist-members-arrested-charlottesville-riot> (retrieved January 16, 2019).

## Matters of Ethics



### Making Money on Prisoners

The fact that private prisons are a lucrative business has led to charges of corruption in several states. For example, in 2010 the New Mexico corrections secretary refused to penalize a private prison contractor for understaffing prisons it operated—a violation of its contract with the state. New Mexico lost more than \$18 million in penalties due to this lack of contract enforcement. The state saved money, but at the expense of adequately staffing the prison. It turns out that the corrections secretary in New Mexico was a former employee of and a warden for the same private prison corporation. Furthermore, the prison corporation had been accused of unfair political activity by contributing to the campaign of a candidate for sheriff while using unregistered lobbyists to secure a lease renewal of a jail it operated.

In another case, a private prison company took advantage of the small town of Hardin, Montana. It convinced the town to sell \$27 million in bonds for the construction of a facility that was built but never used. The bonds have since gone into default.

President Trump's 2018 policy of separating family members seeking asylum in the United States drew increased attention to immigrant detention centers. Many such detention centers are run by private companies such as CoreCivic and GEO group. While 9 percent of prisoners are held in private prisons, up to 73 percent of immigrants are held in private facilities. The argument for private prisons is that they can provide the same functions at a lower cost, but studies question the veracity of that claim. Given Trump's stated promise to imprison as many illegal immigrants as possible, the assumption is that the numbers of people seeking refugee status in the United States will continue to increase the private prison populations.

#### OBSERVE → INVESTIGATE → UNDERSTAND

- Construct a compelling argument for barring current or former employees of private prison corporations who assume political office from developing contracts with private prison corporations.
- Should states be allowed to contract with private corporations to incarcerate prisoners? Why or why not?
- What concerns arise when families seeking asylum are held in detention centers run by private companies?

**SOURCES:** Trip Jennings, "No Penalties for Understaffed Private Prisons," *New Mexico Independent*, September 2, 2010; Trip Jennings, "Corrections Secretary's Previous Work for Private Prison Operator Highlighted," *New Mexico Independent*, September 7, 2010; Trip Jennings, "N.M. Could Have Repeatedly Fined Private Prisons for Low Staffing Levels," *New Mexico Independent*, September 10, 2010; Trip Jennings, "Corrections Gave Up \$18 Million in Uncollected Penalties," *New Mexico Independent*, September 15, 2010; *East County Magazine*, "Private Prison Group Uses Unregistered Lobbyists while Giving Money to Sheriff Gore," [www.eastcountymagazine.org/node/3463](http://www.eastcountymagazine.org/node/3463) (retrieved December 31, 2010); Matthew Reischer, "Private Prison Developer Behind Montana Fiasco Involved in Construction of NM Private Prisons," *New Mexico Independent*, October 12, 2009; Clyde Haberman, "For Private Prisons, Detaining Immigrants Is Big Business," *The New York Times*, October 1, 2018.



Matthew Brown, Flickr/SP Images

## DIS Connects

### Complicated Justice

Sometimes who deserves incarceration instead of fines, restitution, or probation is not only contested in the courts but also in the media. On January 29, 2019, Jussie Smollett, a star of the popular show *Empire*, reported that he was targeted in a racialized and homophobic manner. Smollett said he was victimized in a way that included a noose around his neck and physical injuries. The incident reportedly happened in Chicago and immediately received national attention. As the story unfolded, it became less clear that the facts of that early morning were exactly as Smollett reported.

The Chicago police contended that Smollett's story was not corroborated by the evidence they uncovered. The police forwarded to the district attorney's office that Smollett had conspired with two brothers.



Terrence Antonio James/Chicago Tribune/TNS/Alamy

Abimbola Osundairo and Olabinjo Osundairo, to fake the attack. The district attorney's office on March 26, 2019, however, decided to drop the 16 charges of disorderly conduct related to alleged false reporting against Smollett. The district attorney's office dropped the charges in exchange for giving up his \$10,000 bail bond and for his already served community service. One explanation from the district attorney's office was that a conviction was likely to be difficult.

The mayor of Chicago, Rahm Emmanuel, and the Chicago Police Department did not agree with the prosecutor's decision. They publicly stated such immediately and followed up in April 2019 with a civil suit to reimburse the city for the costs of the investigation. According to the police department, Smollett cost them \$130,000 for the investigation that they consider fraudulent. For his part, Smollett maintains that he was a victim and that any notion that he conspired in his victimization is inaccurate.

This chain of events led some to question whether Smollett was dealt with in a way that "regular" people would have experienced. Was Smollett case influenced by his celebrity status? When we have opposing understanding of facts how is the justice system supposed to sort through these differing contentions?

#### OBSERVE → INVESTIGATE → UNDERSTAND

- Do celebrities receive different justice than people who are not celebrities?
- How does media coverage affect how justice is meted out?
- How can we create a system that minimizes the influence of celebrity?

**SOURCE:** Mitch Smith, "Chicago Sues Jussie Smollett, Seeking Costs of Police Investigation into Attack Claim," *New York Times*, April 11, 2019.

- **Real Careers** profiles recent graduates who have chosen a career in criminal justice.
- **Real Crime Tech** illuminates the ways in which technology is currently used in a range of criminal justice situations and settings.
- **Race, Class, Gender** traces the experiences of people who historically have been left behind in the process of criminal justice.
- **What about the Victim?** reminds us that the criminal justice story is also about the victim.

# An Author Team That's Connected to the Real World

*CJ: Realities and Challenges*, Fourth Edition, provides a uniquely interdisciplinary view of criminal justice not found in any other text. As both academics and practitioners with diverse backgrounds in law enforcement, the courts, corrections, and victim services, we provide a comprehensive, contemporary, and realistic perspective on these vital institutions.

We wrote this text using a highly collaborative process. To ensure that each branch of the criminal justice system was thoroughly represented, we organized our research, writing, and editing efforts as a peer review circle. Each chapter was the product of an ongoing, iterative review by the entire author team. The result of this synergistic effort is a unified voice providing a balanced, insightful point of view that is informed by the experience of the entire author team and has been affirmed by the feedback of course instructors.

We encourage students to read this text much in the spirit in which it was created: to have an open mind, think critically, engage in discussion, and exploit the wide knowledge and practical experience represented by the author team. Our collective experience demonstrates the need for collaboration in addressing the complexity of the criminal justice system.

## The Authors

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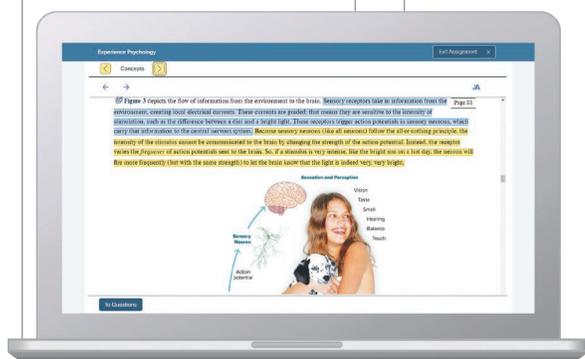
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# The Learning Support System for *CJ: Realities and Challenges*

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# Chapter-by-Chapter Changes

## **PART 1:** **CRIME, LAW, AND THE CRIMINAL JUSTICE SYSTEM**

### **Chapter 1: What Is the Criminal Justice System?**

- New Realities and Challenges vignette, “The Role of the Criminal Justice System in the U.S. Democracy”
- Updated discussion of changing views on marijuana use and trends toward decriminalization
- Updated Disconnects box, “Evolution of Marijuana Laws”
- Updated discussion of tough-on-crime politics
- New Race, Class, Gender box, “Muslim Travel Ban”
- Completely revised discussion in “Challenges to Criminal Justice Today”

### **Chapter 2: Types of Crime**

- New Realities and Challenges vignette, “The Changing Definition of Domestic Violence”
- Updated A Case in Point box, “Atlanta’s Program to Interrupt Violence through Outreach and Treatment”
- Updated Real Crime Tech box, “Emerging Drug-Testing Technologies”
- Updated Race, Class, Gender box, “Gender and Crime”
- Updated crime statistics
- Updated material on immigration offenses

### **Chapter 3: Causes of Crime**

- New Realities and Challenges vignette, “A Case of Folie à Deux?—‘Madness of Two’”
- New Real Crime Tech box, “Reconstructing Faces from DNA: DNA Phenotyping”
- Updated Matters of Ethics box, “Revising the *DSM*: A Process on Trial in the Court of Professional Opinion”
- Updated and expanded discussion of mental disorders
- New Race, Class, Gender box, “Interrupting Gun Violence”
- New A Case in Point box, “Social Conflict: Yellow Vests’ Protests in France”
- New What about the Victim? box, “Culture Conflict in Charlottesville, Virginia”

### **Chapter 4: Criminal Law and Defenses**

- New A Global View box, “What Happens When Crime Crosses Borders?”
- New Matters of Ethics box, “When Is Breaking the Law Necessary?”

- Updated Race, Class, Gender box, “LGBTQ+ Youth and Survival Sex”

## **PART 2:** **LAW ENFORCEMENT**

### **Chapter 5: Overview of Policing**

- New Realities and Challenges vignette, “The Power of Community Partnerships,” addressing the opioid crisis
- Updated numbers of federal officers
- New Real Crime Tech box, “Camera Surveillance and Facial Recognition Interface”
- New Race, Class, Gender box, “Why Do People Want to Abolish ICE?”
- New What about the Victim? box, “The Value of Procedural Justice in Increasing Police Empathy in Interactions with Victims and Citizens”
- Results of a recent study on agency consolidation
- Updated Global View box, “India’s Growing Reliance on the Security Industry”

### **Chapter 6: Policing Operations**

- New Realities and Challenges vignette, “Violence Erupts in Charlottesville”
- New A Case in Point box, “Problem-Oriented Policing in Action: The Pinellas County Sheriff’s Office’s Safe Harbor for the Homeless”
- New Real Crime Tech box, “Flagging In-Progress Crimes”
- New Disconnects box, “Repairing the Disconnect in Emergency Communications”
- New text material on drones and law enforcement
- Text update of more favorable views of law enforcement
- New A Global View box, “Public Perception of the Police in Belgium”

### **Chapter 7: Legal and Special Issues in Policing**

- New Realities and Challenges vignette, “Managing Use of Force”
- New Matters of Ethics box, “Interrogating Minors”
- New Real Crime Tech box, “Use of Force Training in a Simulator Environment”
- New text material on changes to drug enforcement strategies
- New text material on gangs
- New What about the Victim? box, “The ‘Elephant in the Room’: Officer Suicide”
- New A Case in Point box, “*Plumhoff v. Rickard* (2014)”

## **PART 3:** **ADJUDICATION**

### **Chapter 8: The Courts**

- New Realities and Challenges vignette, “A Complicated Journey through the Courts”
- Updated statistics on court processes
- New Race, Class, Gender box, “Judicial Diversity”
- Updated Real Crime Tech box, “Freeing Wrongfully Convicted Persons”
- New What about the Victim? box, “The Role of the Victim Advocate on a College Campus”

### **Chapter 9: Pretrial and Trial**

- New Realities and Challenges vignette, “Tried for a Third Time?”
- New A Case in Point box, “The Right to Claim Innocence”
- New What about the Victim? box, “Victims’ Rights and the Courts”

### **Chapter 10: Sentencing**

- New text details updating the discussion of the revised USSC sentencing guidelines
- Updated text discussion of controversies and court challenges over lethal injections—and the effect on executions
- Updated and expanded discussion on capital punishment
- Updated A Global View box, “United Nations Resolution on a Death Penalty Moratorium”
- Updated Race, Class, Gender box, “Exonerating the Innocent”

## **PART 4:** **CORRECTIONS**

### **Chapter 11: Overview of Corrections**

- Updated Myth/Reality features
- Updated statistics, figures, and textual material throughout
- In-depth updated coverage of Public Safety Realignment Policy and mass incarceration
- Updated What about the Victim? box, “Implications for Victims of California’s Realignment Policy”
- Updated coverage of California’s Public Safety Realignment Policy and women prisoners
- Updated discussion of inmate race and gender differences
- Updated discussion of private and faith-based prisons
- Updated coverage of correctional populations in the United States
- Updated coverage of state prison inmates
- New material on the Trump Administration’s Bipartisan Criminal Justice Reform Act of 2018 (First Step Act)

- New Matters of Ethics box, “Making Money on Prisoners,” on immigration detention centers at the border and private prisons
- Updated A Global View box, “The Legacy of Penal Transportation and Isla Maria Madre Federal Prison”
- Updated Race, Class, Gender box, “Treating Women in Prisons . . . as Second-Class Citizens of the System”

### **Chapter 12: Jails and Prisons**

- New A Global View box, “Incarceration *For* Punishment in Contrast to Incarceration *As* Punishment: Prisons around the World That Defy Hard Time”
- Updated statistics, figures, charts, boxes, and textual material throughout
- Inclusion of discussion of the Criminal Justice Reform Act of 2018 (First Step Act)
- Updated Real Crime Tech box, “Personal Communication Technology and Prisons,” on voice-print technology in prisons and jails
- Updated Disconnects box, “Diving for Rehabilitation
- Updated jail and prison statistics throughout
- Updated coverage of the shift away from the policy of mass incarceration and “get tough” sentencing practices
- Updated coverage of how mass incarceration affects people of color
- Updated A Case in Point box, “The National Emotional Literacy Program for Prisoners”
- Updated coverage of transgender inmates
- Updated coverage on AIDS and ill inmates
- Updated discussion of prisoner rights
- Updated discussion of rapidly rising number of women in U.S. prisons

### **Chapter 13: Community Corrections**

- Updated statistics, figures, charts, boxes, and textual material
- New Disconnects box, “Complicated Justice,” on the Jussie Smollett case
- Updated A Case in Point box on the Jaycee Dugard case
- Updated Real Crime Tech box, “Probation Kiosks”
- Updated sections on probation and parole
- Updated coverage of how Public Safety Realignment policy affects probation, parole, and community corrections
- Updated coverage on the relationship between doing away with policies of mass incarceration and community-based corrections
- Updated Matters of Ethics box, “Relationships between Correctional Personnel and Offenders”

**PART 5:**  
**SPECIAL ISSUES**

**Chapter 14: Understanding and Helping Victims**

- Updated social forces leading to the victims' rights movement
- New Race, Class, Gender box, "Hate and Violence in the United States"
- Updated crime statistics
- New text on the U.S. Census of Domestic Violence Services
- Updated Disconnects box, "When Victims Are Revictimized"
- Updated perspectives on victim assistance for older adults
- New A Case in Point box, "School Shootings in the United States"

**Chapter 15: Juvenile Justice**

- New Realities and Challenges vignette, "Alternatives for Juveniles"
- Updated discussion and analysis of measuring juvenile crime

- Updated statistics on juvenile crime
- Updated Matters of Ethics box, "Police in the Schools"
- New Race, Class, Gender box, "Victimization of Female Delinquents"
- Updated juvenile corrections statistics
- Updated Disconnects box, "Punishing Truancy"

**Chapter 16: Evolving Challenges in Criminal Justice**

- New Realities and Challenges vignette, "The Rise of Far-Right Extremism"
- New coverage of ransomware
- Updated information on the extent of cybercrime
- New What about the Victim? box, "Victimization in the Wake of Cybercrimes"
- New Real Crime Tech box, "Drones as Terrorist Weapons"
- Updated terrorism prevention strategies
- New Matters of Ethics box, "Airport Screening Protocols and Privacy Concerns"
- Updated hate crime statistics
- Extended discussion of immigrant victims

## Contributors

The author team is very appreciative of all the hard work of the McGraw-Hill professionals who worked on this book. Susan Raley, Content Project Manager, is singularly commended for her responsiveness, creativity, and professionalism. Our work is better for their assistance. We would like to thank the late Lester Pincu for his important contributions to the first and second editions. In addition, we thank the many contributors for their work in helping shape this text. More than 100 professors helped to influence the development of the first edition of *CJ: Realities and Challenges*. We'd like to thank the following professors for their help in developing this fourth edition (NB: inclusion in this preface does not equal an endorsement of our materials).

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“The Masters text is a comprehensive collection of information presented in an easy to read manner. The pictorial display presented in the text highlights and supplements the written material in [a] student-friendly way. And, the text incorporates information about the victim throughout the material, which is a pleasant rarity in a textbook.”

—Lisa A. Hoston, Allegany College of Maryland

“This is a thorough and highly relevant textbook that will encourage students to further their pursuit of criminal justice as a field of academic study.”

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# Dedications

*Thanks to an awesome author team and to Elizabeth and Viola, who gave up so much of their time with me so I could work.*

–Ruth Masters

*I'd like to thank my family for their constant support and encouragement.*

–Lori Beth Way

*I'd like to thank Dennis, Allison, and Quinn for their continuing support, and for giving up so much of their time so I could work.*

–Phyllis Gerstenfeld

*Much appreciation for the understanding of my wife, Jill, and all family members on those occasions when the manuscript “train” required some deferring of time together—and for acceptance of “walk IOUs” by Abbie, canine guardian of manuscripts.*

–Mike Hooper

*I would like to thank my wife, Edda, for all the time away from her, especially for the late night and weekend calls, both at home and while on vacations. She has been an important source of support throughout the entire process.*

–John Dussich

CJ

REALITIES  
AND CHALLENGES

4TH EDITION



# 1 What Is the Criminal Justice System?



## OBSERVE → INVESTIGATE → UNDERSTAND

After reading this chapter, you should be able to:

- Illustrate how social norms help us define crime.
- Define crime and explain how it is classified.
- Describe the consequences of crime for the offender and the victim.
- Outline the basic structure of the criminal justice system.
- Describe key models of the workings of the criminal justice system.
- Describe how criminal justice is influenced by public opinion, the media, politics, and policy.
- Review the challenges to the criminal justice system today.

# Realities and Challenges

## The Role of the Criminal Justice System in the U.S. Democracy

In today's America the news and other forms of media often contain debates about strains upon our democratic institutions. Some say our society is divisive politically, socially, and culturally to an extent it has never been before. As a result, it is important to ask the following question: How and in what ways does the criminal justice system contribute to the stability and functionality of a democratic society? As you will learn by reading this book law enforcement, the judiciary, corrections, and victims services are major components of the wider criminal justice system that have positive roles to play in keeping society free from chaos and harm. This is not meant to imply the criminal justice system is perfect and does not need improvement but rather each part of the criminal justice system reflects and carries out American values, provides checks and balances, and offers truth to power for other institutions and those persons in power who might seek to undermine the foundations and institutions of democracy. One example of how different components of the criminal justice system operate to ensure democratic ideals is that, in addition to providing for public safety and preventing crime, law enforcement agencies pursue cases that those with political power might work to undermine. The courts by their rulings and adherence to the sacred principle of the rule of law provide checks and balances against overreach by the executive and legislative branches of government. Corrections provides rehabilitation and treatment for those who commit crimes and are addicted, and protects citizens by incarcerating those who might harm them. Recently corrections is providing reparation to those who have been victims of sentencing disparities. Victims services advocate for victim-oriented legislation and provide rights backed by law and programs to bring justice and restoration for those who have suffered from crime events. You will learn more as you read this book and we encourage you to consider the positive aspects of the criminal justice system and aspects that might need revision. We also challenge you to think about the role the criminal justice system plays in a vital democracy. Chapter 1 sets the foundation for the rest of the book by defining laws and crime, and sanctions; providing different views of crime; describing the structure and realities of the broader criminal justice system; discussing how the fear of crime, media coverage, and politics shape our ideas about crime; and introducing major challenges to the criminal justice system in the twenty-first century.

Police, detectives, victim advocates, judges, lawyers, prosecutors, jurors, correctional officers, parole officers—these are the people with whom the suspect, the victim, and the victim's family deal when interacting with the criminal justice system. It is a complex and sometimes lumbering machine, as it tackles the job of taking criminals off the street, ensuring a fair trial, supporting victims, protecting society, and punishing and attempting to rehabilitate offenders.

Of course, there are challenges to match the complexity. Have the police followed proper procedures? Has the victim been treated fairly, and does the individual understand his or her rights? Have the prosecutors shared all the relevant evidence with the defending lawyers? Was the jury trial fair? What role did the victim and/or the victim's family play in the criminal justice process? Were due process rights protected? Was the sentencing appropriate for the offense? Has the offender been mistreated in prison? Are there opportunities to rehabilitate? Has parole been granted (or denied) in a fair manner? There are many points at which justice may be either served or derailed.

We hope that this book will help you learn to think critically about the realities and challenges of the world of criminal justice. We want to help you interpret facts and recognize myths about the criminal justice system so you will understand and appreciate its complexities. We hope you come to understand how the roles of offenders, protectors, and victims are interwoven in a system dedicated to detecting those who violate the rules, determining their guilt, and carrying out an appropriate punishment. We begin in this chapter with a brief

exploration of the nature of rules whose violations constitute crime and an introduction to how the criminal justice system is structured and works.

## THE RULES THAT BIND: NORMS AND LAWS

### MYTH/REALITY

**MYTH:** Some behaviors are so wrong that they are crimes in all societies.

**REALITY:** It is not the nature of an act that makes that act a crime; it is the nature of society that defines a particular act as a crime in that society.

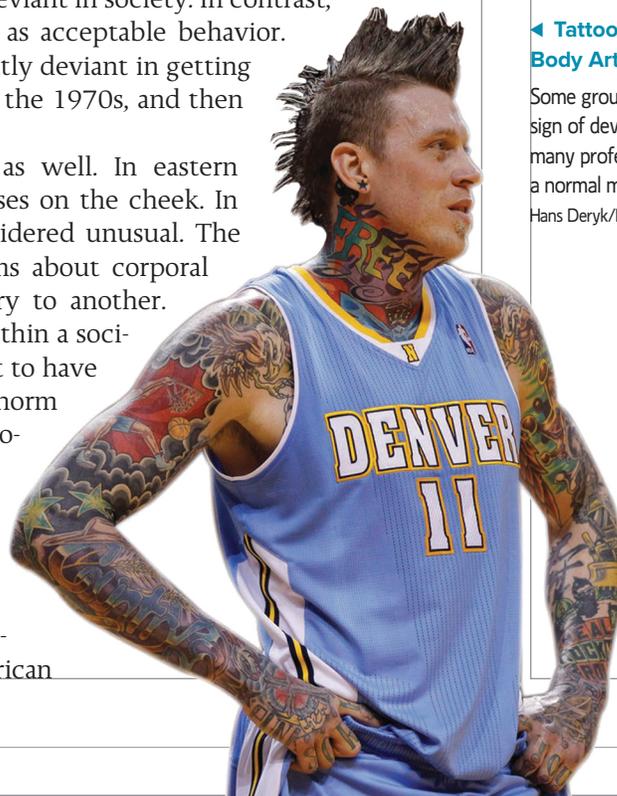
A **norm** is a rule that makes clear what behavior is appropriate and expected in a particular situation. If, for example, it is the norm to arrive at meetings on time, being late violates the norm. The term *abnormal* connotes **deviance**, the violation of a norm. (The prefix “ab” means “away from,” so *abnormal* means “away from the norm.”) No behavior is inherently deviant—that is, deviant solely by virtue of its nature. Rather, whether a particular act is considered deviant depends on many factors, including context, place, time, and the individual(s) judging it.

Let’s consider how a behavior’s deviance depends on the context in which it occurs. For example, if you were to spit on 42nd Street in New York City, people might frown at you, but you would not be arrested. But if you were to spit in the subway, you would be violating a formal regulation of the New York City Transit Authority and could face criminal prosecution in a municipal court. The fact that each week 7 million people pass through the close quarters of the subway system makes hygiene a factor in determining what is deviant in that situation.

Our ideas of deviance also change over time. For example, before the 1970s, being divorced conferred the status of deviant in society. In contrast, today’s social norms recognize divorce as acceptable behavior. In other words, there is nothing inherently deviant in getting divorced: Society found it deviant until the 1970s, and then our attitudes changed.

Norms vary from place to place as well. In eastern Europe, men greet other men with kisses on the cheek. In the United States this behavior is considered unusual. The “A Global View” box shows how norms about corporal punishment can vary from one country to another. Norms also vary from group to group within a society. While some may consider it deviant to have tattoos covering one’s body, it is the norm within many gangs and among many professional athletes.

A **social norm** specifies how people are expected to behave. Social norms are informal rules that are not written but that we nonetheless know and follow. We learn them from parents, peers, and teachers. In North American



## Preview

THE RULES THAT BIND: NORMS AND LAWS

WHAT IS CRIME?

THE CONSEQUENCES OF CRIME

THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

HOW CRIMINAL JUSTICE WORKS: THE REALITIES

INFLUENCES ON CRIMINAL JUSTICE

CHALLENGES TO CRIMINAL JUSTICE TODAY

SUMMARY

REVIEW

KEY TERMS

STUDY QUESTIONS

CRITICAL THINKING QUESTIONS

### norm

A rule that makes clear what behavior is appropriate and expected in a particular situation.

### deviance

The violation of a norm.

### social norm

A rule that specifies how people are expected to behave.

### ◀ Tattoos: Sign of Deviance or Body Art?

Some groups may consider tattoos a sign of deviance; for others, including many professional athletes, tattoos are a normal means of expression.

Hans Deryk/Reuters/Landov

## A Global View

### How U.S. Legal Norms Differ from Those in Singapore: The Case of Michael Fay

The focus of this case is not so much on the crime as it is on the punishment. On March 3, 1994, Michael Peter Fay, a St. Louis, Missouri, teenager living in Singapore, was sentenced to four months in jail, a fine of 3,500 Singapore dollars (about 2,214 U.S. dollars at the time), and six strokes of a rattan cane for the crimes of theft and vandalism. Norms differ regarding the appropriateness of the type of corporal punishment known as caning between the United States and Singapore. To understand the context of these crimes and their punishment, it is relevant to know that the Singapore government had been trying to cope with a rash of vandalisms leading up to this case. About six months earlier, car vandalism emerged as a noticeable new problem and was reported in one of the local newspapers. Cars parked near apartments were being damaged with hot tar, paint remover, red spray paint, and hatchets; and some taxi drivers reported having their tires slashed. In

both countries vandalism and theft are usually considered nonviolent crimes and are considered as misdemeanors. The exception to this rule is when the property damaged or stolen has high value (in the United States if it exceeds \$500), in which case it can be considered as a felony. In Singapore it is quite normal for the criminal courts to issue sentences of caning; this punishment is unheard of in the United States. Ironically, 19 U.S. states do permit corporal punishment to be used to “discipline” children and to be administered by parents and/or teachers. In Singapore this form of punishment may only be used on males. President Clinton considered Michael Fay’s punishment so inappropriate that he interceded and appealed to the president of Singapore, who, out of deference to the U.S. president, reduced the number of strokes from six to four. The caning was carried out on May 5, 1994, and the rest of the sentence was completed after four months. In the United States, the typical forms of punishment for vandalism can include fines, probation, community service, restitution, and/or jail sentence.



▲ Michael Fay

Roslan Rahman/AFP/Getty Images

#### OBSERVE → INVESTIGATE → UNDERSTAND

- Should the Singapore court have taken into account that the offender had been socialized in a different culture? Explain.
- When living in a foreign country, should a guest from the United States be held to a higher standard? What are your reasons?
- Was it appropriate for the president of the United States to intervene? What might have been the consequences either way? What message did his intervention send to other Americans living in foreign countries?

**SOURCES:** “U.S. Student Tells of Pain of His Caning in Singapore,” *New York Times*, June 26, 1994. <http://www.nytimes.com/1994/06/26/us/us-student-tells-of-pain-of-his-caning-in-singapore.html> (retrieved May 15, 2015); Alejandro Reyes, “Rough Justice: A Caning in Singapore Stirs Up a Fierce Debate about Crime and Punishment,” *Asiaweek*, Hong Kong, May 25, 1994. <http://www.corpun.com/awfay9405.htm> (retrieved May 16, 2015); Valerie Strauss, “19 States Still Allow Corporal Punishment in School,” *Washington Post*, September 18, 2014. <http://www.washingtonpost.com/blogs/answer-sheet/wp/2014/09/18/19-states-still-allow-corporal-punishment-in-school/> (retrieved May 18, 2015).

society, informal social norms include waiting your turn in line to purchase tickets at a movie theater and not eating mashed potatoes with your fingers.

Formal social norms, also called *legal norms*, are formally written. Formal norms forbid theft and assault, for instance. Although not all deviance from norms constitutes a crime, the violation of formal norms, or *laws*, sets the criminal justice system in motion. In fact, informal social norms can evolve into legal norms. Because it is laws that determine what crimes are, we need to take a closer look at how these legal norms come about.

## WHAT IS CRIME?

What constitutes crime? The answer is not as obvious as it may seem. Certainly, a crime is an act that breaks a law. But this description, though concise, does not help us understand the complexity of classifying criminal behavior. As we will see in this section, it is common to distinguish between two broad categories of crime: *mala in se* and *mala prohibita* crimes.

**SPITTING**  
On the Platforms or other  
Parts of this Station  
is  
**UNLAWFUL**  
Offenders are Liable  
to Arrest  
By Order of the Board of Health

#### ▲ Violating a Legal Norm

Spitting in the subway is a crime that violates a formal regulation of the New York City Transit Authority.  
steinphoto/iStock/Getty

## MYTH/REALITY

**MYTH:** People are either criminal or not.

**REALITY:** Virtually all people commit crimes at some point in their life. Whether we consider them criminals depends largely on what offenses they commit.<sup>1</sup>

### Can Crimes Be Inherently Wrong?

A crime is referred to as *mala in se* if it is categorized, as its Latin name suggests, as an “evil unto itself,” a behavior that is morally wrong. This definition implies that a given behavior would be wrong in any context, even if there were no law against it. However, just as there is no such thing as an inherently deviant act, there is no such thing as an inherently criminal act. Society creates crime in the same way it creates deviance—by labeling specific behaviors as such.

Because no behavior is criminal until society makes it so, distinguishing a category of crime as *mala in se* can be confusing. We discuss this category of crime here because it is a term often used by researchers and practitioners in the field of criminal justice.

Traditionally, *mala in se* offenses are seen as a violation of a basic universal social value. On the surface, it may seem reasonable to identify an act such as forcible rape as violating some universal code of morality. But no universal social code of justice exists. For example, historically the victim of a sexual assault was not considered the woman herself but rather her husband, father, or brother. The “What about the Victim?” box illustrates that the definition of sexual assault crimes is influenced not only by time period but also by the understanding of the victim and the relationship to the perpetrator.

### Crimes Prohibited by Law

*Mala prohibita* crimes, also known as **statutory crimes**, are acts that are criminal because they are prohibited by law. *Mala prohibita* crimes reflect public opinion at a particular moment in time. As standards of social tolerance change, so do the behaviors included in this category.

Laws against adultery provide a case in point. Historically, when a married person had consensual sexual relations with someone outside the marriage, the punishment could be death. Under some laws today, such as strict Islamic law (known as *Shariah*), adulterers can still be executed. Although adultery remains

## What about the Victim?

### “No Means No” . . . at Least in Some States



Rehulian Yevhen/Getty Images

Depending upon the legal jurisdiction, the element of force is no longer necessary to be convicted of forcible rape. Two state jurisdictions have changed their rape laws in this regard. In January 2003, the California Supreme Court decided that 16-year-old John Z. raped 17-year-old Laura T. when, at a party in

2000, he continued to have sexual intercourse with her for 1–2 minutes over her objections. In fact, they had engaged in intercourse for approximately 10 minutes, during which time Laura repeatedly told him she had to go home while physically struggling to stop him. John’s response was “to give [him] a minute.” The court held that even though Laura initially consented to intercourse, John’s failure to stop when she withdrew her consent—after penetration—constituted rape. By 2004, courts in eight states, including California, had extended the interpretation of their rape laws. No longer is the use of force, violence, or threat of harm to the victim required to convict for rape.

Illinois went a step further. After the John Z. decision, the state legislature passed the “No Means No” Act later in the same year. This legislation added a section to the Illinois rape statute that recognizes an individual’s legal right to withdraw consent to intercourse at any point after giving that consent. This development made Illinois the first state to pass a law explicitly protecting the rights of women in this regard. As Matthew Lyon (2004) notes in his discussion of how definitions of rape are evolving over time, cases like that of John Z., legislative initiatives like that of Illinois, and media coverage of cases like the accusation of rape against basketball phenomenon Kobe Bryant are likely to prompt other state legislatures to consider similar statutes.

Now, in the “Post-Weinstein era,” more rape victims’ statements are believed. Most states today are shying away from trying to only determine if the sex act was unwanted; 8 states are in that category, 28 states use “sex without consent” when specific “power unbalances or victim characteristics exist,” and 46 states accept that rape has occurred only when there was no consent and when “an additional element of force is present.”

### OBSERVE → INVESTIGATE → UNDERSTAND

- Although the California court rejected John Z.’s “primal urge” claim—that is, the idea that he just could not stop himself—what do you think about the argument that once a male has begun to have consensual intercourse, it is not reasonable to expect that he can “just stop”? What is a reasonable time for a partner to stop after a woman removes her consent?
- What if a woman is too drunk to give consent?

**SOURCES:** *People v. John Z.*, 60 P3d 183, 184 (Cal. 2003); Matthew R. Lyon, “No Means No? Withdrawal of Consent during Intercourse and the Continuing Evolution of the Definition of Rape,” *Journal of Criminal Law and Criminology* 95 (2004): 277–314; Kari Hong, “A New Mens Rea for Rape: More Convictions and Less Punishment,” *American Criminal Law Review*, 55, no. 22 (2018): 259–332.

***mala in se***

A behavior categorized as morally wrong (“evil in itself”).

***mala prohibita***

A statutory crime that reflects public opinion at a moment in time.

**statutory crime**

An act that is criminal because it is prohibited by law.

**consensus perspective**

A view of crime that sees laws as the product of social agreement or consensus about what criminal behavior is.

**conflict perspective**

A view of crime as one outcome of a struggle among different groups competing for resources in their society.

illegal in many countries today, penalties are relatively minor and are rarely enforced. Currently in the United States more than 20 states have laws prohibiting adultery. While prosecutions are rare, legal penalties range from a \$10 fine to life in prison.

What motivates a society to criminalize some behaviors and not others? Two predominant points of view about how crimes become defined capture the essence of this divergence: the consensus perspective and the conflict perspective.

### Consensus and Conflict Perspectives

The **consensus perspective** of crime views laws as the product of social agreement or consensus about what criminal behavior is. According to this view, criminals are individuals whose behavior expresses values and beliefs at odds with those of mainstream society. For example, they rob banks while most of us work for a living. Laws, as the product of social consensus, promote solidarity: “We’re all together on this.” In this perspective, murder is a crime because it violates a consensus belief in the sanctity of life. We agree that killing is wrong, so we criminalize this act. Those who subscribe to the consensus perspective believe that defining some behaviors as criminal is necessary (or functional) because it is in everyone’s interest to control those who deviate.

The **conflict perspective**, on the other hand, views the definition of crime as one outcome of a struggle among different groups competing for resources in society. The people who own and control society’s resources (land, power, money) are able to influence those who determine what laws are passed. Rather than looking at individual wrongdoers to understand crime, the conflict perspective looks at the process that determines who is a criminal and who is not. It asks, for example, why we apply more law enforcement resources to the bank robber than to the stockbroker who steals millions of dollars through insider trading on Wall Street.

The conflict perspective holds that laws are influenced and created by those who control the political and economic power within the society. The unequal distribution of resources in society generates competition, and hence conflict, among the groups vying for power. The “Disconnects” box illustrates how powerful corporate interests may have aided, if not been largely responsible for, passage of laws prohibiting marijuana use. An overview of marijuana’s long and complicated history reveals that nothing about the nature of the act itself makes marijuana use a crime. But whether laws against it are consensus or conflict based is a matter of debate. Let’s consider both sides.

Is using marijuana illegal because society agrees it should be (consensus model)? The fact is that public views on the use of marijuana have changed over time. A Gallup Poll conducted in 2018 revealed 66 percent<sup>2</sup> of Americans support the legalization of marijuana (and a 2018 Quinnipiac Poll found 93 percent of American voters supported medically prescribed marijuana).<sup>3</sup> In contrast, only about 20 percent favored its legalization in the early 1970s.<sup>4</sup> Accordingly, and consistent with the position that consensus drives legislation, a number of states are introducing initiatives toward the decriminalization of marijuana use.

Alternatively, is marijuana use illegal because powerful interests are served by making it so (conflict model)? For example, it is conceivable that profits related to particular drugs produced by the pharmaceutical industry could be threatened by the legalization of marijuana use. A third possibility may be that marijuana laws are the result of both consensus and conflict—to varying degrees at different points in time.

## Evolution of Marijuana Laws

The evolution of marijuana laws illustrates that laws are mere social constructions that change as we and our social landscape change.

In the United States from the mid-1800s until 1937, marijuana was largely a medicinal drug legally available by prescription. Few knew it as a recreational drug beyond people living in the Mexican American communities close to the Mexican border. But growing anti-Mexican sentiment in various regions of the country spread fears of Mexicans' bringing their "loco weed" into the United States and fueled the call for marijuana prohibition. Legislation proposed to control marijuana use cited its alleged harmful effects and reflected the views of authorities like the commissioner of the Federal Bureau of Narcotics, Harry Anslinger, who testified before Congress that "marijuana is an addictive drug that produces in its users insanity, criminality, and death." Such claims made it appear that marijuana laws would be for the good of the whole society—reflecting a consensus view. Remarkably, however, the American Medical Association went on record in those same 1937 congressional hearings to note that there was no medical evidence to support the contention that the drug

was harmful. It is unlikely the medical profession would offer the same testimony today. For example, the National Institute on Drug Abuse links long-term marijuana use to addiction and symptoms of serious mental disorder, and smoking marijuana frequently leads to the same respiratory problems experienced by tobacco smokers. Such research is only likely to increase as more states decriminalize marijuana use for medicinal or recreational purposes.

But back in 1937, a conflict view was at work as well. Powerful corporate interests joined the crusade against marijuana when they recognized that hemp—the source plant for the drug—could be used to make textiles and paper, thereby posing a threat to already established U.S. industries. Fears of the economic potential of the hemp plant—not its psychoactive properties—largely stimulated calls for passage of the Marijuana Tax Act of 1937. Under this law, anyone who imported, distributed, or sold marijuana was required to register with the Internal Revenue Service and to pay a prohibitive tax. Although the act did not outlaw marijuana, it sought to severely curtail its use. Similarly, opposition to the legalization of marijuana for medicinal and/or recreational use today has been alleged to come from, among other sources, the pharmaceutical industry and alcohol companies—both of which stand to lose profit if marijuana is accepted as an alternative to existing products.

Public support for decriminalizing marijuana use has been increasing since the 1990s. A 2018 poll found a majority of U.S. voters (63 percent versus 33 percent) agree with the legalization of marijuana for recreational use, and it is legal for medicinal purposes in at least 33 states. And while its use—recreational or otherwise—continues to be prohibited under federal law, individual states are making moves toward decriminalization. In 2012, Colorado and Washington became the first states to legalize and regulate the possession of an ounce or less of marijuana by adults over 21. Since then at least eight more states and Washington, D.C. have passed similar legislation. It remains to be seen whether the federal government will enforce federal law in these jurisdictions.



Bettmann/Getty Images

### OBSERVE → INVESTIGATE → UNDERSTAND

- In what ways have the laws against marijuana reflected a consensus perspective? In what ways have they represented a conflict perspective?
- What might make the campaign against marijuana different from campaigns against other recreational drugs, such as cocaine?
- Do you think a tax is a better way to control marijuana use than a law against it? State your reasons.

**SOURCES:** John Galliher, David Keys, and Michael Elsner, "Lindesmith v. Anslinger: An Early Government Victory in the Failed War on Drugs," *Journal of Criminal Law and Criminology* 88 (Winter 1988): 66; Richard Bonnie and Charles Whitehead, *The Marijuana Conviction: A History of Marijuana Prohibition in the United States* (New York: Lindesmith Center, 1999); National Institute on Drug Abuse, "NIDA InfoFacts: Marijuana," revised June 2018, National Institute on Drug Abuse, Bethesda, MD. <http://drugabuse.gov/PDF/InfoFacts/Marijuana.pdf> (retrieved December 18, 2010); Quinnipiac University Poll, "Support for Marijuana Hits New High," April 26, 2018. <https://poll.qu.edu/national/release-detail?ReleaseID=2539>.

The conflict perspective is well illustrated in the case of vagrancy laws in England.<sup>5</sup> Vagrancy laws were passed in the fourteenth century to prevent peasants from leaving the employ of wealthy landowners to seek independent work in neighboring towns. Because it took time to develop a trade

and become established in the towns, peasants who wandered would, at least initially, lack any apparent means of support. Laws defining unemployed wanderers as vagrants targeted those peasants. Given the choice of being imprisoned for vagrancy or returning to the landowners, many returned to work the land.

Vagrancy laws served the interest of the wealthy by preserving the status quo and their position of power and privilege. Such laws could also, however, be seen as a protection for society because the wandering unemployed would eventually have to commit crimes to support themselves.

Using the evolution of vagrancy laws as a model can help us understand many of today's laws in the United States. Most of our laws and the resources of the criminal justice system focus on "crime in the streets" at the expense of attention to corporate crime and government corruption, the "crime in the suites" that costs society billions of dollars each year. Like the wealthy landowners of feudal England, today's large corporations get their interests translated into laws. Those who come to be identified as criminals are often, like the peasants of medieval society, those who lack power and wealth.

The basis for a particular law also may change over time. For example, we could argue that laws against theft were initially consistent with the conflict model because the will of the more powerful "haves" dictated the passage of laws against theft to protect their own property. The "have-nots" had less in the way of material goods and tended to be the ones identified as criminals. With the passage of time and a decrease in the previously massive disparity in economic well-being, however, most people came to a consensus about laws against theft.

## THE CONSEQUENCES OF CRIME

The consequences of crime—for victims and perpetrators alike—are numerous and varied. Some are obvious and can be readily measured. For example, the victim of an assault suffers a broken nose that requires surgery, and she loses two weeks of work as a result. The convicted offender spends five years in prison. Other consequences are indirect and more difficult to assess. How, for instance, do we measure the fear that accompanies the victim every time she walks alone to her car? How do we measure what is lost by spending years in prison? The criminal justice system is society's formal response to criminal behavior. But, of course, not all offenders are caught and convicted, and the effects of victimization can extend far beyond the legal arena.

### Sanctions

There is no sense in having rules if there are no consequences for those who break them. **Sanctions** are prescribed consequences intended to reinforce people's conformity to norms; they can be positive (rewarding) or negative (punishing). Although we are well acquainted with the rationale behind punishing bad behavior, we tend not to associate the term *sanction* with rewards for good behavior. In fact, positive sanctions can be just as effective—if not more so—than negative sanctions in shaping people's behavior. Rewarding an ex-convict's efforts to learn to read and write, for example, may prove more effective in changing his criminal ways than sending him to jail a second time.

Sanctions can be formal or informal. For example, someone who behaves badly in public is likely to be met with disapproving glances, an informal response designed to encourage the deviant to cease and desist. Even though informal sanctions generally do not carry the weight of their formal counterparts, they can have a major impact on behavior.

#### sanctions

Prescribed consequences intended to reinforce people's conformity to norms.

Our criminal justice system delivers a range of formal negative sanctions in response to criminal behavior. If the crime is relatively minor—say, driving 10 miles per hour over the speed limit—the offender may be given a fine. A criminal infraction of a more serious nature—say, vandalizing a park—is likely to be sanctioned by a harsher penalty such as probation, which restricts personal freedom by requiring regular meetings with a probation officer and avoidance of drugs, alcohol, and other people on probation. For more serious crimes, such as robbery and assault, the court may set a term of incarceration. Prison inmates are removed from society and deprived of their liberty. For the most serious crimes, in 35 states the offender can be executed.<sup>6</sup>

We have considered the formal and informal sanctions that offenders face as consequences of their criminal behavior. As would be expected, victims also suffer consequences from criminal behavior; however, often these consequences are not as well understood given our criminal justice system's focus on offenders.

### Impact of Crime on Victims

Victims are the targets of illegal actions by others. As a result, victims suffer physical, sexual, or emotional harm, death, or a combination of these injuries.

More often than not, criminals and their victims are of the same race and in the same age range, live in the same neighborhood, belong to the same socio-economic strata, and—with the important exception of rapists and most of their victims—are the same sex. Victims tend to occupy the same social space as do offenders. Would-be criminals notice the victims' vulnerabilities, seize the opportunity, and commit a crime.<sup>7</sup>

Victims are often neglected and even abused by the criminal justice system, and this reality makes their suffering significantly worse. Some become fearful and less willing to cooperate with the prosecution. It is normal to want to avoid fear and pain. That is why many victims choose not to report their crime, not to cooperate with criminal justice officials, and not to serve as key witnesses.

The plight of victims gave rise to the victim rights' movement (see Chapter 14). This movement began to have an effect on the criminal justice system, initiating reforms in the early 1970s. As a result, victims are now being treated better and can receive compensation for their injuries and losses. Furthermore, most suffer fewer hardships and recover more quickly from monetary losses. However, much remains to be done before all victims are treated with the respect, dignity, and care they deserve.

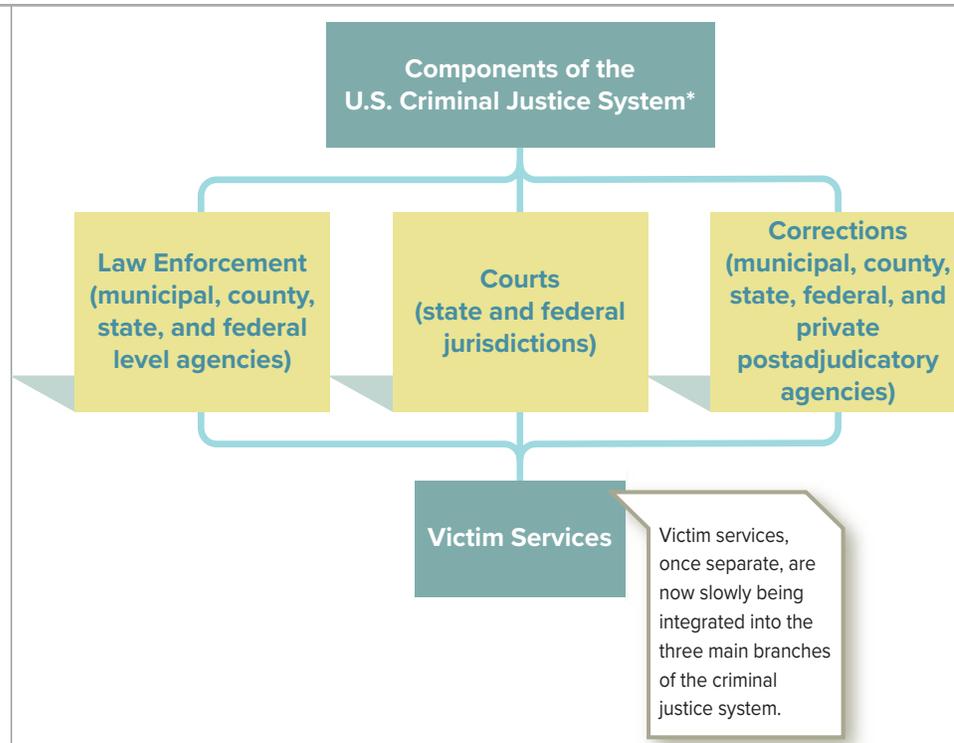
## THE STRUCTURE OF THE CRIMINAL JUSTICE SYSTEM

The **criminal justice system**, our focus in this section, comprises the wide array of actors and agencies at the local, state, and federal levels of government that deal with the problem of crime. The term *criminal justice system* denotes the process by which adult offenders are handled, while *juvenile justice system* (see Chapter 15) refers to the process for those under 18. The major institutional components of the traditional criminal justice system include law enforcement, the judiciary, and corrections. These components are interdependent in that decisions made in one component often affect decisions made in others.

A contemporary view of the system also considers victim services as an emerging element of the system because of the collaborative effort to incorporate victim services into law enforcement agencies, the courts, and corrections

### criminal justice system

The interdependent actors and agencies—law enforcement agencies, the courts, the correctional system, and victim services—at the local, state, and federal levels of government that deal with the problem of crime.



**FIGURE 1-1** Components of the U.S. Criminal Justice System

\*Each component has a counterpart in the juvenile justice system.

(Figure 1-1). Generally, we think of law enforcement as starting the process of the administration of justice, the courts as deciding guilt and punishment, and correctional agencies as carrying out that punishment. Victim services, although not traditionally considered a major branch of the criminal justice system, is an important determinant of whether justice is served.

The U.S. criminal justice system is the sum of all these parts and more. Because of its size and complexity, communication among the parts is not always efficient. In addition, like a chain whose strength is determined by its weakest link, the criminal justice system depends for its success on the effectiveness and integrity of each component. In the “Matters of Ethics” box, we see the extent to which unethical behavior on the part of one individual working in a crime lab ultimately compromised justice in thousands of criminal cases.

▼ **School Resource Officer with Elementary School Students**

School resource officers bring awareness of crime and the law into the classroom.

ZUMA Press Inc/Alamy



**Law Enforcement**

The part of the criminal justice system familiar to most U.S. citizens is law enforcement. From childhood, we can identify a police officer and an officer’s car and understand the basic functions of the police—to protect the community and arrest criminals.

But realistically, the police are called upon to do far more than protect and arrest. They are dispatched to deal with a host of matters ranging from the mundane (checking on the security of a home while the owner is traveling; writing

# Matters of Ethics

## Lies That Convicted the Innocent

For justice to be served, judges and juries must trust in the integrity of both expert witness testimony and physical evidence in considering whether there is reasonable doubt that a suspect committed the crime. Major doubts about that integrity fell upon the Boston area in the fall of 2012.

In late August 2012, it was revealed that a chemist in the Massachusetts state crime lab, Annie Dookhan, had mishandled drug evidence and failed to follow required procedures. Governor Deval Patrick ordered the lab closed, and the extent of the damage began to be revealed. Dookhan had been considered the labs “Superwoman,” testing drug evidence at much higher rates than her colleagues. But her rates were so high that eventually some colleagues grew suspicious. Dookhan ultimately admitted to investigators that she had been negligent in the processing of evidence in some cases and had outright faked results in others.

Dookhan had worked at the lab for a decade and told investigators she had been compromising evidence “for about the last two or three years.” Specifically, she admitted to documenting samples as narcotics based on their appearance rather than actually testing them; she estimated she had tested only about 5 of every 25 samples. The investigation also included a review of Dookhan’s e-mail correspondence with prosecutors, in which she revealed an eagerness to cooperate and gratification at being able to help win convictions. To support her qualifications as an expert witness, she also claimed to have a master’s degree that she did not have.

In November 2013, Dookhan was found guilty of tampering with evidence and obstructing justice. She served three years in prison and was released on parole in April 2016. The final costs of her behavior will be immense. Governor Patrick has asked for \$30 million to fund a review of her cases, and several county district attorneys have requested a further \$12 million. As many as 60,000 cases may need to be reviewed, more than half of which may be overturned, and untold numbers of convicted drug defendants may have their convictions voided. By October 2018, over 21,000 cases linked to Dookhan’s testing and analysis were dismissed.

a traffic ticket), to the bizarre (finding ghosts in a home), to the most serious (homicide)—and nearly any imaginable incident in between. Law enforcement officers are expected to resolve many of society’s problems and are entrusted to use force only when necessary. Ideally, they make decisions quickly, use discretion, show courage and sacrifice in the face of danger, and treat individuals with dignity and respect even when threatened, harassed, abused, or assaulted.<sup>8</sup>

In recent years, police responsibilities have moved into the educational setting as school resource officers and educators raise awareness about crime, drugs, and prevention. Community-based initiatives have tried to foster a more collaborative relationship between police and citizens to address crime control and prevention.<sup>9</sup>

## The Courts

The United States has a dual court system made up of **state courts** and **federal courts**. As their names suggest, crimes against state laws are prosecuted in state courts, and crimes violating federal statutes are prosecuted in the federal court. State courts differ from state to state, but all have trial courts and **appellate courts**, where cases can be appealed. The federal system consists of district courts (comparable to the state trial courts), appellate courts or circuit courts where appeals are heard, and the U.S. Supreme Court (see Chapter 9).



Troubling ethical questions have arisen regarding oversight of the lab. Many ask how a chemist could have tampered with so many cases without raising red flags. Colleagues had notified supervisors of their concerns, but those concerns were not acted upon. Ultimate responsibility for the state’s crime labs lays with the public health commissioner, who resigned as a result of the scandal. Several supervisors were also disciplined or fired.

Dookhan’s ethics are also puzzling. Why did she do it? Why would a biochemist with a seemingly great career taint evidence and lie about her credentials? The only answers appear to center around her desire to be a “helpful” employee and her commitment to convicting people the police had arrested.

### OBSERVE → INVESTIGATE → UNDERSTAND

- How can trust in the criminal justice system be restored after a scandal like this?
- What kind of oversight should be employed in crime labs?
- What guidelines should be in place to verify expert witnesses?

**SOURCES:** Brian Ballou and Andrea Estes, “Chemist Admitted Wrongdoing in Lab Scandal,” *Boston Globe*, September 26, 2012; Andrea Estes, “Indicted Drug Analyst Annie Dookhan’s E-mails Reveal Close Personal Ties to Prosecutors,” *Boston Globe*, December 20, 2012; Shawn Musgrave, “District Attorneys Send Notices to Thousands of Dookhan Defendants,” *WGBH News*, June 6, 2017, <https://www.wgbh.org/news/2017/06/06/local-news/district-attorneys-send-notice-thousands-dookhan-defendants> (retrieved February 2, 2019); Rebecca Trager, “Final Cost of Forensic Chemist’s Misconduct Still Being Counted,” *Chemistry World*, October 23, 2018, <https://www.chemistryworld.com/news/final-cost-of-forensic-chemists-misconduct-still-being-counted/3009660.article> (retrieved February 2, 2019).

#### state courts

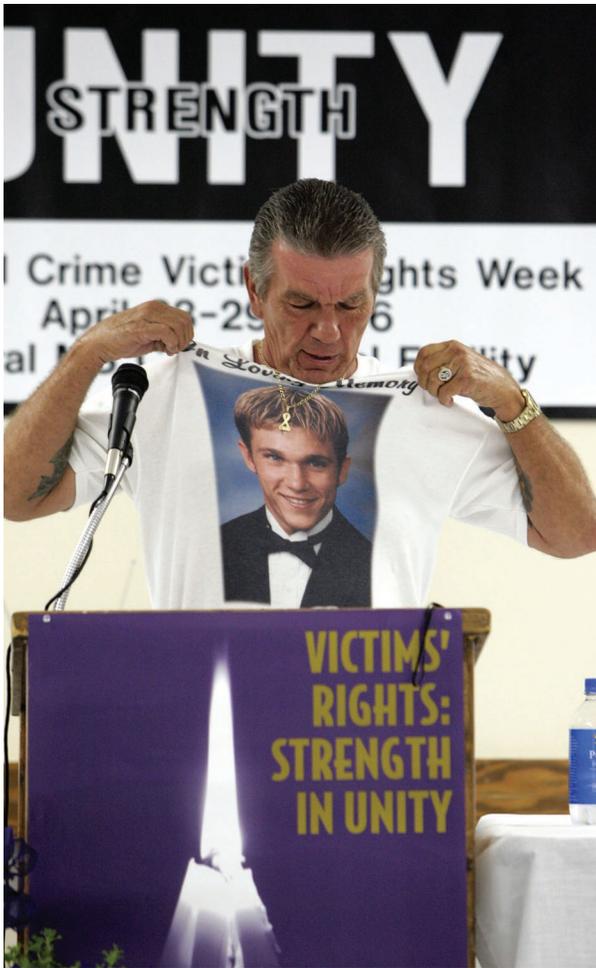
The system in which state crimes are prosecuted; it includes both trial and appellate courts.

#### federal courts

The system in which federal crimes are prosecuted consisting of district courts, appellate courts or circuit courts, and the U.S. Supreme Court.

#### appellate courts

Courts that hear appeals from trial courts or other lower courts.



#### ▲ Demonstration for Victims' Rights

The victims' rights movement began in the 1970s and pushed for more involvement of the victim in the criminal justice process. Rogelio Solis/AP Images

#### corrections

The systematic, organized effort by society to punish offenders, protect the public, and change an offender's behavior.

#### alternative sentence

A sentence that is served in a treatment facility or in community service.

#### probation

An alternative to jail or prison in which the offender remains in the community under court supervision, usually within the caseload of a probation officer.

#### parole

An early release from prison conditional on complying with certain standards while free.

#### victim services

A range of resources—such as shelters, transitional housing, counseling, and 24-hour hotlines—aimed at reducing the suffering and facilitating the recovery of victims, especially those who participate in the criminal justice process.

Within each of these settings, a prosecutor first decides whether to prosecute a case. If the prosecutor chooses to move forward, he or she presents the case against the defendant on behalf of the state or federal government. A grand jury decides whether a case should go to trial. The prosecutor is then responsible for arguing that case at trial. Defense attorneys, hired by a client or assigned by the court, protect the legal rights of the defendant. If the case goes to trial, the defendant is entitled to fair and proper procedures. Finally, judges are the arbiters in the courtroom and are responsible for ensuring that the rules of evidence and law are not violated. They also provide a jury with instructions for rendering a verdict or decision about the case.

## Corrections

**Corrections** is the systematic, organized effort by society to punish offenders, protect the public, and change an offender's behavior. These efforts are realized through programs, services, and facilities that deal with the offender before and after conviction. The purpose of corrections is to achieve the goals of sentencing, which include retribution, deterrence, incapacitation, rehabilitation, (re)integration, and restitution (see Chapter 11).

Once convicted of a crime, offenders may be imprisoned or serve their sentences under supervision within the community while on probation. An offender also may be given an **alternative sentence** that can be served in a treatment facility or carried out in the form of community service. **Probation** is an alternative to jail or prison in which the offender remains in the community under court supervision, usually within the caseload of a probation officer. Offenders who have been sent to prison can be freed on **parole**, an early release based on their compliance with certain standards while free. A parole officer supervises the offender, who can be sent back to prison if he or she violates the terms or conditions of the parole (see Chapter 13).

When most people think of corrections and the corrections system, they think of the prison system (see Chapter 12). The general practice of using imprisonment as punishment for crime is less than two centuries old. The Bureau of Justice Statistics of the U.S. Department of Justice reported that as of year-end 2016, approximately 2.2 million adults were held in federal or state prisons or in local jails. When the number of individuals on probation and parole are included, the total number of people under correctional supervision as of year-end 2016 was approximately 6.6 million.<sup>10</sup>

## Victim Services

Until the late twentieth century, the U.S. criminal justice system focused primarily on the criminal rather than the victim. Since the 1970s, under pressure from the law-and-order movement, the civil rights movement, the women's movement, and other victim-oriented coalitions, the pendulum began to swing the other way. The promotion of victims' rights to participate in criminal proceedings and to enjoy personal safety contributed to the formation of an array of **victim services** inside and outside the criminal justice system, including shelters and transitional housing programs, counseling services, and 24-hour hotlines.<sup>11</sup> Victim services were an integral part of the victims' rights movement that began in the mid-1970s; another dimension of these rights was greater involvement of the victim in the criminal justice process.

Other services focus on the victim's legal needs, including the appointment of a **victim advocate** to assist the victim with every aspect of the postvictimization period, from the initial crisis and investigation through case adjudication and ultimately to the offender's release. Two important goals of victim services are to lessen victims' suffering and to facilitate their recovery.

Today, victim advocates work in government and nongovernment organizations and in all sectors of the criminal justice system. Some are employed in victim/witness units within district attorneys' offices, others are in probation departments, and still others are part of special units in police departments or within correctional institutions.<sup>12</sup> When a victim is also a family member of the offender, legal services are available to assist with divorce and custody concerns, supervised visitation requests, orders of protection (such as restraining and/or harassment orders), and mediation. The latter is used to help disputing parties work with a court-appointed mediator to ensure that a mutual agreement is reached on a specific issue such as child custody.<sup>13</sup>

Victim services may also include helping victims apply for victim compensation and write **victim impact statements** about how their victimization affected them. These statements are generally read in open court prior to sentencing (in a process called *elocution*) and at probation and parole hearings. In other cases, victim advocates work with **secondary victims** and/or witnesses to help them cope with the victimization of a loved one. Victim services also include removing a dependent individual from a violent environment and conducting site visits at the new location, assisting victims to obtain a job, and a host of other activities to ensure that victims are able to live a life free of the violence they once experienced.<sup>14</sup>

## HOW CRIMINAL JUSTICE WORKS: THE REALITIES

There are various explanations for—and debates about—how the criminal justice system works in reality. These explanations complement debates about how it *should work*—that is, the theoretical ideal. This section surveys some of the explanations and debates regarding how the system works in practice and how it should work in theory.

### MYTH/REALITY

**MYTH:** Almost all criminal cases go to trial.

**REALITY:** A high percentage of cases drop out of the criminal justice system without ever getting to trial or before a trial is complete.<sup>15</sup>

### The Criminal Justice Funnel and the Wedding Cake Model

The result of decisions by criminal justice professionals, suspects, and others creates what is often referred to as the *criminal justice funnel*. The process begins as a large number of people are arrested, many fewer of whom, through a process of filtering, ultimately go to trial or are sentenced. Think about it: If every case were to go to trial, the criminal justice system would collapse from the overload. There has to be a filtering of cases. All criminal justice professionals have a high level of discretion and can filter out cases along the way. For example, a

John Spink/Atlanta Journal Constitution/AP Images



## Real Crime Tech

### AMBER ALERT SYSTEM

The U.S. Department of Justice created the Amber Alert program to foster partnerships among law enforcement agencies, transportation agencies, and broadcast and wireless companies. The goal of the program is to return missing children to their caregivers by widely broadcasting information that would help recover the children. Information such as a description of the suspect's car can be scrolled across electronic highway signs and television screens. As of December 2015, the Amber Alert system has contributed to the rescue and return of 794 children.

SOURCE: U.S. Department of Justice, Office of Justice Programs, "Amber Alert." <https://amberalert.ojp.gov/> (retrieved December 3, 2019).

### victim advocate

A professional who assists the victim during the postvictimization period.

### victim impact statement

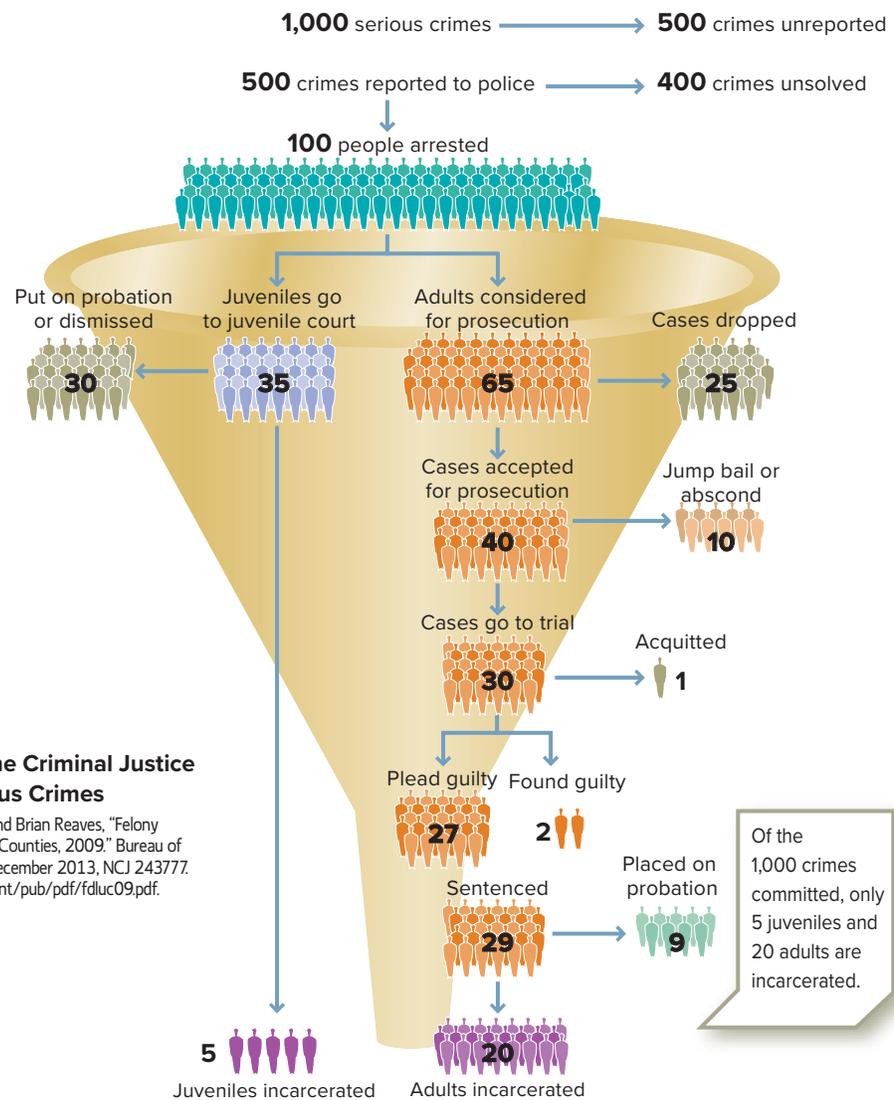
A victim's written statement, usually in the Presentence Report, about how the experience with crime affected him or her. Sometimes judges ask victims to read this statement in open court prior to sentencing.

### secondary victims

Family and friends of an individual who has been victimized.

police officer can decide not to arrest a particular individual who has committed a crime. A prosecutor can decide not to charge someone whom the police arrested. A judge can dismiss a case. When any of those decisions are made, the suspect drops out of the criminal justice process. A guilty plea by a suspect keeps the offender within the system but also eliminates the need for a trial.

A variety of factors influence criminal justice professionals' decisions regarding whether a defendant should enter and proceed through the system. One significant consideration, of course, is the quality of the evidence. If, for example, an officer gets a statement from a witness who then retracts that statement, the prosecutor might be left with insufficient evidence, so she chooses to drop the charges. Another factor is the resources—both time and money—that are needed to take a case to trial. Frequently those expenses are judged to be too great given that a suspect often will agree to plead guilty in exchange for a reduced sentence. From the perspective of professionals in the system, justice can be obtained without a trial outcome. Of course, the system cannot do its work if crimes are not reported, as occurs less than 50 percent of the time. According to the National Crime Victimization Survey 2017, only 45 percent of violent crimes are even reported to the police.<sup>16</sup> These are just a few examples of the many reasons why in 1,000 crimes committed, only 25 people are convicted (Figure 1-2).



**FIGURE 1-2 The Criminal Justice Funnel and Serious Crimes**

SOURCE: Thomas Cohen and Brian Reaves, "Felony Defendants in Large Urban Counties, 2009." Bureau of Justice Statistics Bulletin, December 2013, NCJ 243777. <https://www.bjs.gov/content/pub/pdf/fdluc09.pdf>.

Of the 1,000 crimes committed, only 5 juveniles and 20 adults are incarcerated.

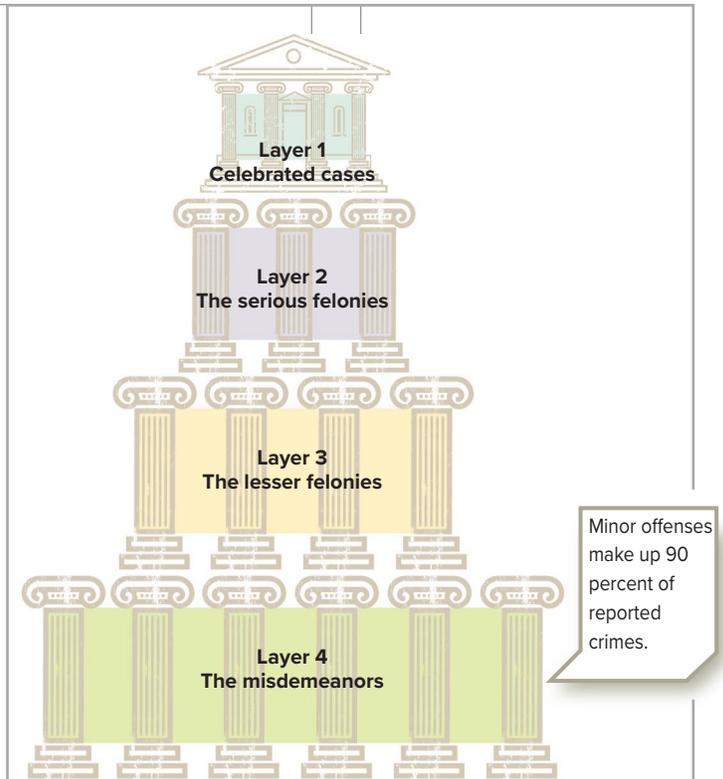
Some scholars and practitioners use the **wedding cake model** to help explain why some cases make it through the funnel and some do not. Figure 1-3 depicts the four different layers of the criminal justice wedding cake. The vast majority of cases, about 90 percent, are contained within the base of the cake, Layer 4. These offenses are largely misdemeanor and infraction cases. *Misdemeanor cases* are those that can result in a sentence of one year of incarceration or less, probation, or other alternative sentences. *Infractions* are even more minor offenses, such as traffic violations. These cases are generally considered not serious or worth much of the system's time. The focus in this layer is to minimize the amount of resources expended on these cases. To that end, there is a very high level of guilty pleas in exchange for lenient treatment.

The next three layers account for the other 10 percent of cases. Layer 3 includes *felony* cases of a less serious nature (such as car theft) or ones in which the defendant has not previously had trouble with the law. These cases are also dispatched rather quickly. The system starts slowing down with Layer 2. This tier includes serious felonies. Here you would find murder cases, defendants with many prior offenses, and cases that include victims who were strangers to their perpetrators. The criminal justice system regards all of these situations as serious, and they are more likely to result in trials than the cases in either Layer 4 or Layer 3.

The top of the cake, Layer 1, includes the very few cases that are considered celebrated cases, such as serial killings. They garner the most media attention. They may or may not involve celebrities, but the defendant in the case generally becomes a household name. These cases almost always involve a long trial, unless the defendant strikes a plea bargain. For example, Gary Ridgway, known as the Green River Killer, spared himself the risk of the death penalty by pleading guilty to killing 48 women in Washington State. Law enforcement believes he killed many more women, and Ridgway himself claims to have killed 90 or more.

The wedding cake model reminds us that most cases do not get the attention or resources spent on them that the high-profile cases do. The system does not work as TV shows like *Law & Order* would have us believe. Justice is usually not swift, and some observers worry that it is not deliberate enough. People who see the criminal justice system that way categorize the process as an assembly line with little consideration for the unique characteristics of a case. Criminal justice professionals defend their actions by arguing that the system cannot handle a thorough deliberation of all the cases.

Now that we have examined how the criminal justice system works in practice, we focus next on a key recurring point in discourse about the system—the idea of preventing crime from occurring altogether. A frequent topic of discussion, many people view crime prevention as the “elephant in the room” because they believe that crime springs from societal conditions and that the criminal justice system is incapable of effectively handling the problem. In the absence of a “vaccination” to address criminality at its roots, preventive actions have



**FIGURE 1-3** The Wedding Cake Model

SOURCE: Walker, Samuel. *Sense and Nonsense about Crime and Drugs* (Belmont, CA: Wadsworth, Cengage Learning, 2001).

#### wedding cake model

An explanation of the workings of the criminal justice system that shows how cases get filtered according to the seriousness of the offense.



#### ▲ Serial Killer Gary Ridgway

Ridgway was convicted and sentenced to life for killing 48 women.

*Should Ridgway have been allowed to plead guilty to avoid execution?*

Elaine Thompson-Pool/Getty Images

#### crime prevention

Measures taken to reduce the opportunity for crime commission by individuals predisposed to such.

#### crime control model

A model of the criminal justice system that emphasizes the efficient arrest and processing of alleged criminal offenders.

#### due process model

A model of the criminal justice system that emphasizes individual rights at all stages of the justice process.

been relegated in large part to the system's vanguard component: law enforcement. Two additional points of discussion—or, rather, debates—ensue after prevention measures have proved ineffective. These are centered on two models of how the system should process individuals who come within its purview. These models—crime control and due process—represent distinct value systems that compete for priority in a democratic society.<sup>17</sup>

### Crime Prevention

**Crime prevention** rests on the notion that it is better to take measures to prevent crime than to respond to crime after its occurrence.<sup>18</sup>

Preventing crime has been a central element of modern law enforcement's mission, and these efforts are mostly focused on high-crime activity—for example, hot spots policing (the concentration of policing on crime clusters)<sup>19</sup>; target hardening, as through neighborhood crime prevention and environmental design (the elimination of physical conditions conducive to crime)<sup>20</sup>; police-public partnerships such as community policing; potential offenders, as with general and specific deterrence; and offender intervention programs.

Crime prevention also has significant applications to victimization. From the results of studies of repeat victimization<sup>21</sup> and victim vulnerabilities,<sup>22</sup> crime prevention resources can be delivered to individuals lacking such protections, especially those whose behaviors, personal conditions, and lifestyles increase their risk for victimization—for example, young children, young adults, marginalized individuals such as the homeless and ex-offenders, and people with a disability.<sup>23</sup>

### The Crime Control Model

The **crime control model** emphasizes the efficient arrest and processing of alleged criminal offenders. The value system underlying this model considers the repression of criminal conduct as the most important function of criminal justice. In other words, what matters most is to reduce, quickly respond to, and punish criminal behavior. According to this model, the failure to bring criminal conduct under control leads to the breakdown of public order, a vital condition of human freedom. Because the crime control model emphasizes quick conviction and sentencing, advocates resist strong procedural protections that others would say help society ensure that only the guilty are punished.

As you will see in many parts of this book, the crime control model has dominated the public debate over how the criminal justice system should work since the 1980s. It has led to a tough-on-crime stance that doubts whether perpetrators can be rehabilitated and stresses that offenders have historically been treated too leniently by the criminal justice system. Proponents of the crime control model are satisfied with assembly-line justice because it speeds up the justice system and treats similar offenses and offenders in a consistent way. They worry more about criminal threats to people's safety than about the constitutional protections of suspects.

### The Due Process Model

The **due process model** emphasizes individual rights at all stages of the justice process. This model is more concerned with the threat to procedural rights of the offenders than with the general public's right to be free of crime. Advocates of the due process model argue that it is better to let guilty people go free than to convict the innocent.

*Due process* is the term used in the Constitution to describe procedural protections for the accused. Under the due process model, the police would

recognize all the constitutional rights guaranteed to persons suspected of criminal conduct. Prosecutors and judicial authorities would actively support the same constitutional provisions before, during, and after any criminal proceeding. If the crime control model is more akin to an assembly line, then the due process model looks more like a maze with a variety of barriers to ensure that those punished are truly guilty.

The due process model likely reached its height in the 1960s when the U.S. Supreme Court was extending constitutional due process requirements to local and state criminal justice agents as well as federal ones. The law enforcement requirement to notify suspects of their rights, first introduced in 1966 in the famous case of *Miranda v. Arizona*, is consistent with the values of the due process model.

Although these two models seem to work as a dichotomy—one on each end of a value continuum—values of both models are at work in the criminal justice system today. In fact, the continued debate between these two positions helps us to evaluate from day to day how we want our criminal justice system to work.

## INFLUENCES ON CRIMINAL JUSTICE

In an ideal society, the criminal justice system protects, defends, and upholds laws in an equitable way for all citizens. In the real world, however, people bring genuine fears and prejudices to the courtroom, the media can stoke those fears and prejudices, and lawmakers hold the purse strings to criminal justice initiatives. Thus, the criminal justice system does not operate in isolation; it is subject to many outside influences that can change the course of justice, either intentionally or unintentionally.

### MYTH/REALITY

**MYTH:** People fear strangers as being very likely to victimize them.

**REALITY:** Individuals are more likely to be victimized by someone they know.<sup>24</sup>

### Fear of Crime

In general, U.S. residents believe there is much more crime than there actually is, and their fears are often misplaced. For example, women are consistently told that they should not walk alone at night and should fear male strangers. Being cautious about one's surroundings is wise, but the truth is that women are much more likely to be harmed by someone they know than by a stranger. It is uncomfortable to think about, but given the statistics on women's victimization, women should fear the men they know more than the men they do not know.<sup>25</sup> Still, 46 percent of women, but only 26 percent of men, say they are afraid to walk alone at night.<sup>26</sup> Fear of crime, specifically of crimes by strangers, influences where and when women are comfortable in public spaces and how they behave in those spaces. In other words, fear of stranger crime works to control women's choices.<sup>27</sup>

One measure of our fear of crime is the Gallup survey's question "Is there any area near where you live—that is, within a mile—where you would be afraid to walk alone at night?" In October 2017, 0 percent responded yes.<sup>28</sup> That response was down from the 1982 high of 48 percent and may reflect a significant reduction in crime during that time period. Specifically, in 1982 there were 50.7 violent crime victims per 1,000 U.S. residents, whereas in 2017 there were only 20.6 violent crime victims per 1,000 people.<sup>29</sup> That reality is clearly not reflected in people's *perception* of crime, however; consider that in March 2016,

53 percent of U.S. residents worried a “great deal” about crime.<sup>30</sup> This put the level of Americans’ concerns about crime at a 15-year high.

Various factors can affect the level of fear we experience about crime generally, including our gender, age, past experiences with crime, ethnicity, income, educational attainment, and the area in which we live. Criminologists point out that some of the most fearful groups are those less likely to be victimized.<sup>31</sup> For example, older people and women tend to have higher levels of fear than do young men, yet as a group young men are most likely to be victims of crime.<sup>32</sup> Women may have a greater fear of crime than men because their fear of sexual assault generalizes into an overall fear of crime.<sup>33</sup> Older people may be influenced in their fears by media exaggerations of crime in the streets, attention given to elder fraud and nursing home abuse, and heightened feelings of vulnerabilities that come with advanced age.<sup>34</sup>

Those who have experienced crime typically have elevated fears of crime. Victims of robbery tend to have high levels of fear afterward due to the sudden,



Lane Oatey/Blue Jean Images/Corbis

## RACHEL DREIFUS

**Work location:** Redmond, WA

**College(s):** Bellevue College

**Major(s):** Criminal Justice (AA)

**Job title:** Assistant Investigator, Securitas Security Services USA

**Salary range for jobs like this:** \$40,000–\$48,000

**Time in job:** 5 years

### Work Responsibilities

Securitas Security is a vendor company contracted by Microsoft Corporation to provide investigative services. My job consists of reviewing and investigating cases requiring follow-up, such as ones involving theft, threats of violence, and assault. I am assigned between 5 and 25 cases per month, and I manage them by interviewing witnesses, communicating with police departments, and maintaining physical evidence in our secure climate-controlled evidence room. Some of the tools that make my investigations possible are video cameras, audio recorders, phone logs, and covert cameras that are as small as a pin! Every day I make sure all of my case notes are recorded in our database, which can be accessed by other Securitas Security investigators.

## Real Careers

### Why Criminal Justice?

I returned to college as an adult after having spent five years raising my children. When my youngest daughter became old enough to enter kindergarten, I decided to pursue the career that I always wanted: U.S. marshal. After researching the qualifications to enter the U.S. Marshals Service, I found that an AA in criminal justice along with at least three years in private security was recommended. Although at times it has been a juggling act to balance family, work, and school, my classes were a purely rewarding experience. I am now proficient in all aspects of investigations, including gathering data, collecting evidence, analyzing crime scenes, and interviewing subjects. After five enjoyable years in corporate security, I no longer plan to pursue employment as a U.S. marshal. My current job allows me to practice criminal justice without the dangers associated with police investigations.

### Expectations and Realities of the Job

The realities of the job are a little bit different than I originally expected. First, I thought my deadlines would be more long term, but as it turns out, I am challenged on a daily basis to meet business objectives, such as resolving a certain number of cases and following through with a report to our legal department. After five years on the job, I have never gotten tired of what I do. I make my work more interesting and rewarding by striving to go above and beyond my supervisors’ expectations.

### My Advice to Students

Textbooks provide the knowledge you need for your job, but they cannot prepare you for the emotional aspects of starting a new job, particularly the nervousness. Taking responsibility for managing cases and any mistakes that might happen during the investigation put a lot of pressure on me. By speaking with experienced colleagues, I learned that these feelings are normal. Remind yourself that your employer thinks you are qualified for the job. After a few months of getting settled, your confidence will grow.

unexpected, and personal nature of the crime. Victims of burglary likewise tend to become more fearful due to the invasion of their home and the loss of significant money or property.<sup>35</sup>

A moderate level of fear might serve citizens in a positive way by generating caution, a factor that makes them less vulnerable to victimization. Some people might purchase alarms or security systems designed to keep them safe. Some might avoid situations they perceive as dangerous. Locking an automobile or a home is a prudent action. However, when the public's unreasonable or unwarranted fear of crime influences public policy, it results in crime policies that are based on irrational conclusions rather than sound reasons. The fear of crime also can have a major economic and social impact on society. How we spend money, go out to dinner, buy our houses, shop, travel, and spend our leisure time can all be affected by our fear of crime.

### Media Coverage

Media coverage of crime inflates individuals' levels of fear. It produces a **moral panic**, a group reaction based on exaggerated or false perceptions about crime and criminal behavior. Individuals who watch local television news are more likely to be fearful of crime than those who watch national television news, listen to radio news, or access their news from the Internet.<sup>36</sup> The old adage "If it bleeds, it leads" appears to be especially true for local television news. Sensational media reports fuel fear of crime and result in support for the death penalty and handgun ownership, indicating that media coverage of crime can affect people's policy positions.<sup>37</sup>

Most criminal behaviors are not crimes against persons and are nonconfrontational. However, media reports focus heavily on violent crime. For example, homicides make up more than one-fourth of the crime stories reported on the evening news, but murder is actually a very rare event.<sup>38</sup> Media focus on these incidents via television, radio, newspapers, magazines, books, billboards, and the Internet leads people to believe that violent crime occurs frequently.

The media usually report or portray perpetrators of crime as minorities. White people are shown as victims out of proportion to their actual rates of victimization.<sup>39</sup> The image of the African American male, especially, as the victimizer of White people has a long historical legacy. Following the Civil War many African American males were lynched because of often unsubstantiated claims that they had made sexual advances toward—or sexually assaulted—White women.<sup>40</sup> In actuality, most crime today is intraracial—individuals most often victimize people of their own race.<sup>41</sup>

A significant downside to the "if it bleeds, it leads" mentality is the shallowness of reporting that results, as demonstrated by research from the City University of New York. A systematic analysis of 12 school shootings (all but one of which occurred in a high school) that took place between 1997 and 2002 in cities from Alaska to Georgia revealed a high incidence of dating violence and sexual harassment as precursors to the shootings, but those incidents went unreported in the news. In five of the incidents, boys targeted and shot girls who had just rejected



#### ▲ Graffiti-Tagged Shops

Some people may regard a neighborhood with defaced storefronts as a sign that the area is unsafe.

Kostas Tsironis/Bloomberg/Getty Images

#### moral panic

The reaction by a group of people based on exaggerated or false perceptions about crime and criminal behavior.

them. In three cases, boys' motivation to kill sprang from general unhappiness related to difficulties with girls. In three other cases, boys felt that they had "protected" their girlfriends by shooting other boys who threatened the relationships.<sup>42</sup>

The media have a public responsibility to report the news, but they are also in the business of making money for their shareholders. If the public chose sources that relayed a more accurate view of crime, the media might change the way they cover the news.

As we have discussed, the media can affect people's fear of crime. Such fear can be translated into political positions and policy preferences.

### Politics

The criminal justice system works within the larger U.S. political system, and politics influences the administration of justice in many ways. The legal system controls what actions are legitimate for criminal justice professionals. Legislators decide how much money the country will spend on prisons, policing, the court system, and victim services. Federal policies influence the priorities established by local justice agencies. For example, the Violent Crime and Law Enforcement Act of 1994 established the COPS office in the Department of Justice to provide grants for hiring community police officers. At the time, this was a new way to approach policing and required a high level of contact and cooperation between police officers and members of communities.

The U.S. Congress does not always require change by passing new laws. Instead, lawmakers can make access to federal funds dependent on states' compliance with certain standards. For example, in 1984 Congress passed the National Minimum Drinking Age Act. The law did not mandate that states make their drinking age 21, but it specified that states that did not raise their minimum drinking age to 21 would not receive highway transportation funds. Even though some states objected to the higher drinking age, they agreed to it so they could access federal monies. Federal agents (such as the attorney general) can also choose to prosecute individuals under federal laws if they disagree with changes in state laws. For example, after California voters approved a proposition in 1996 allowing the use of marijuana for medicinal purposes, federal prosecutors charged medicinal marijuana growers with federal offenses.

Political positions toward crime and justice have changed over time. Beginning in the 1920s, some political leaders held that criminals could be rehabilitated, and criminal justice policies for the most part reflected that belief. However, by the 1980s, the political mood had shifted to a tough-on-crime approach. At that point, the "war on crime" and the "war on drugs" were in full swing, and politicians of both parties pushed for more punitive criminal justice policies, among them stricter sentencing guidelines. Still, there is much debate about whether tougher sentences have reduced crime in the last few years or whether the decline is due to other factors.

Politicians on both the left and right have recently started to articulate concerns that a simple tough on crime approach was repeatedly showing to be both ineffective and very expensive. Hence, a bipartisan effort to move in a different direction was successful in December 2018 when Congress passed the FIRST STEP Act, which was the largest criminal justice reform in a generation. The new law, signed by President Trump, expands early release programs, reduces sentences, and assists inmates in their re-entry into society. This is a radically different direction for criminal justice policy to take and, for reformers, they hope it is just as its name might promise—a first step toward future changes.<sup>43</sup>

Some individuals who seek to influence the administration of justice band together in *interest groups* composed of people who have common social or political goals that they try to achieve by influencing government decision making. These individuals focus either on the overall administration of justice

# Race, Class, Gender



## Muslim Travel Ban

At the end of January 2017, President Donald Trump signed an executive order entitled Protecting the Nation from Foreign Terrorist Entry into the United States. It is largely referred to as the Muslim travel ban given Trump proposed such a ban during his campaign for president. Given challenges to the initial ban, the President issued another to replace it in March 2017. That version also had legal trouble. The final version was issued as a proclamation on September 24, 2017 and was entitled Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats. The main provisions of the executive orders and then proclamation denied travel from seven countries without an approved waiver. Those countries include Iran, Libya, Somalia, Syria, Yemen, North Korea, and Venezuela. As a result, 700 travelers were detained by Homeland Security and 60,000 visas were revoked. Further, the Refugee Processing Center estimates that Muslim refugees have been reduced by 91 percent in the last two years.

The travel ban was met with a variety of legal challenges focusing on the claim that the policy discriminated against Muslims. Ultimately, the U.S. Supreme Court upheld the proclamation in June 2018. Critics of the executive order argue that the executive order is a result of discrimination against



Jeff Chiu/AP Images

Muslims and an assumption that Muslims traveling to the U.S. are doing so to commit crimes or terrorist acts. The Supreme Court ruled that because waivers could be granted, the executive order was not unconstitutional. They emphasized the President's broad authority over national security and immigration.

One family's experience with the travel ban resulted in widespread national outcry. Parents Ali Hassan, a U.S. citizen and Shaima Swileh, a Yemeni, who lived in Egypt, sought to bring their two-year old son, Abdullah Hassan, with a genetic disorder, to the United States to seek desperately needed medical intervention. Because Hassan's mother, Swileh, is originally from Yemen, she was prevented from receiving a travel visa. As Hassan's condition worsened, the family decided his father would bring him to the United States. Swileh continued to try to gain access to the United States. Ultimately, the family realized that Hassan was going to die and were trying to allow Swileh to say goodbye to her son. There was no change on her visa application until the story received national media attention. She was finally granted the visa and was able to say goodbye to her son.

Critics of the travel ban argue that discrimination is behind the policy. Regardless of the motives of the order, the fear that individuals from these countries will commit crimes, especially terrorist acts, has resulted in a total of 35 million people being unable to travel to or seek refugee status in the United States (without the very rare exception of being able to obtain a waiver).

### OBSERVE → INVESTIGATE → UNDERSTAND

- President Trump campaigned saying many disparaging things about Muslims. Should what people say about groups be used to understand their actions? How do we know if something is discriminatory?
- How does our fear of crime from certain groups affect our policy actions?
- How can we balance concerns for security with those for human rights without being discriminatory?

**SOURCES:** Adam Liptak and Michael D. Shear. "Trump's Travel Ban Is Upheld by the Supreme Court," *New York Times*. June 26, 2018; Christina Caron. "Son of Yemeni Mother Dies Soon After She Won Visa Battle with U.S. to See Him," *New York Times*. December 29, 2019.

or on one particular aspect of the system or law to forward their interests. A particularly effective victim interest group is Mothers Against Drunk Driving (MADD), which was instrumental in passing the National Minimum Drinking Age Act. Other organizations focus on broader issues such as reducing sentences for offenders. The Sentencing Project, Families Against Mandatory Minimums, and the Drug Policy Alliance argue that the tough-on-crime approach is not effective in reducing criminal behavior but does increase racial disparity (see the "Race, Class, Gender" box). Crime Victims United, on the other hand, advocates more punitive sentences for offenders.

Many interest groups are intent on shifting the criminal justice system away from its sole focus on punishment and back to its emphasis on rehabilitation. The critique of the criminal justice system's almost sole focus on punishment includes concerns about racial disparities in criminal law and punishment, which we review next.



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### Discrimination

Individuals in jail or prison or on probation are disproportionately people of color.<sup>44</sup> This fact has raised a variety of questions regarding fairness in the administration of justice. The serious disparity can be seen in the imprisonment rates; per 100,000 U.S. residents, 281 White adults, 1609 Black adults, and 857 Latinos are imprisoned.<sup>45</sup> In fact, nearly one-third of Black males aged 20–29 are under some form of criminal justice supervision on any given day.<sup>46</sup>

The conflict perspective would explain racial disparities in the criminal justice system as an extension of social divisions in U.S. society.<sup>47</sup> Historically, some definitions of what is criminal were clearly discriminatory. For example, in early America when slavery was legal, it was a crime for antislavery activists to harbor African Americans seeking freedom. A patchwork of discriminatory laws against African Americans—generally called *Jim Crow laws*—was enforced from the years following the Civil War until the late 1960s. In the late nineteenth century, at a time when the White population considered Chinese immigrants a threat to their jobs, opium smoking, a fairly common habit in China, was criminalized in the United States.<sup>48</sup>

Today some observers argue that drug laws are discriminatory in their impact. Young Blacks report less alcohol and drug use than White youth,<sup>49</sup> yet Blacks are much more likely to be arrested for the possession of illicit substances. The “war on drugs” has also had a significant disparate impact on women. Women’s incarceration rates have increased steeply in the last few decades, most often for drug possession.<sup>50</sup>

## CHALLENGES TO CRIMINAL JUSTICE TODAY

Any discussion about the criminal justice system needs to consider how the system must adapt to the changing needs of the twenty-first century. Challenges confronting criminal justice today and into the future place significant strains on its resources. Adaptability on the part of the system and its practitioners is more crucial than ever before. The scope and pace of challenges show no signs of slowing.

Since this textbook was last published, the scale of incidents of mass violence within the United States has reached unprecedented levels. The Pulse Nightclub shooting claimed 49 lives and the ensuing Mandalay Bay concert shooting surpassed that toll by 9 lives. These incidents are the two deadliest mass shootings in U.S. history.<sup>51</sup> The words “Nobody would’ve thought it would happen here!” have been heard on nightly newscasts so often in recent years that the language has lost its significance. What makes a person walk into a workplace, theater, or classroom and open fire? What combination of circumstances compels a human being to commit the most inhuman of crimes?

While less overtly violent but nonetheless an insidious killer, the opioid epidemic has resulted in an annual death rate exceeding that of traffic accidents.<sup>52</sup> In fact, the skyrocketing surge in overdose deaths has actually cut the U.S. life expectancy rate.<sup>53</sup>

On the surface, the array of challenges confronting the criminal justice system may appear incalculably daunting. However, delving into the underlying realities reveals that for every challenge there can be reasoned, research-based processes brought to bear.

While the frequency and mortality of mass collective violence is indeed chilling, the magnitude of the phenomenon has sparked response from multiple influential parties. The National Institute of Justice in 2018 allocated grant funding specifically to perform research to reduce the incidence of mass shootings.<sup>54</sup> The American College of Physicians has advocated vigorously for the adoption of policies to reduce the number of deaths and injuries related to firearms, to the extent the National Rifle Association took to Twitter to admonish doctors

to “stay in their lane.”<sup>55</sup> A Federal Commission on School Safety was established in the wake of the 2018 school shooting in Parkland, Florida, and the “STOP School Violence Act of 2018 authorized grant funding through 2028 to support evidence-based violence prevention in schools.<sup>56</sup> While there are no “one-size-fits-all” answers, as we have come to better understand the causes of criminal behavior we are better positioned to deal with it more effectively, possibly even preventing it from occurring in some cases.

Illicit drugs and the domestic and transnational organizations that traffic them, as well as the corrupt doctors and pharmacists who take advantage of addicted individuals, continue to pose significant challenges. However, efforts on multiple fronts have made progress in turning the tide. The Department of Justice (DOJ) and Drug Enforcement Administration (DEA) have reduced markedly the supply of deadly synthetic opioids in high-impact areas through interdiction targeting distribution networks and suppliers, both domestic and international.<sup>57</sup> The DEA has progressively lowered the legal limits on opioid manufacturing, in furtherance of a goal of reducing opioid prescriptions by one-third over a three-year period. Healthcare fraud enforcement has become a top priority of the DEA and DOJ.<sup>58</sup> For the better part of a decade, Dayton, Ohio, had one of the highest opioid death rates in the country. Between 2017 and 2018, Dayton cut its overdose death rate in half. The key to its success was an approach that rejected outdated strategies that criminalized addiction. The city launched “all-hands-on-deck” harm reduction initiatives such as syringe exchanges. Dayton was also an early champion of naloxone and worked to ensure every first responder was equipped with the overdose reversal drug.<sup>59</sup>

Today’s terrorist landscape is complex, and counterterrorism remains a top priority. Experience has reinforced that preparedness and prevention must be integral parts of a counterterrorism strategy. A comprehensive national strategy emphasizing strengthening security at ports of entry, protecting the infrastructure, and broadening the range of international partners has been operational since being promulgated in late 2018.<sup>60</sup> A separate strategy specifically addressing weapons of mass destruction (WMD) has complemented the broader national counterterrorism strategy. The risk that terrorists are able to attack the United States and its interests with WMD has been reduced as far as can be practically achieved.<sup>61</sup>

As a nation, the United States has become highly digitally dependent. Our economy, national security, educational systems, critical infrastructure, and social lives have become deeply reliant on cyberspace. However, the richness of cyberspace’s content is a treasure trove for malicious actors. The Federal Bureau of Investigation’s Internet Crime Complaint Center tallied victim losses as exceeding \$1.4 billion in 2017.<sup>62</sup> Studies by researchers at St. John’s University project that cybercrime is expected to cost \$6 trillion in damages globally by 2021.<sup>63</sup> Once a topic seen mostly as a nuisance requiring an occasional reset of a password or a new credit card, cybersecurity has become one of the most complicated, difficult issues facing society. The urgency for action precipitated by the threat, however, has stimulated a proportionate response. The U.S. House Committee on Energy and Commerce has intensively analyzed root-cause origins of cybersecurity incidents.<sup>64</sup> There are many exciting partnerships underway to combat cybercrime threats. The U.S. Attorney’s Office’s Criminal Division in Colorado has created a Cybercrime and National Security Section, which aims to work with private industry toward cybercrime prevention. The U.S. Department of Homeland Security and Department of Defense have established a presence in Silicon Valley to foster collaboration with technology firms.<sup>65</sup> Colleges and universities are fashioning online cybersecurity curricula to make course work more affordable in hopes of attracting more people to the field. Bridge programs have



In response to the opioid epidemic, law enforcement agencies across the country have equipped officers with naloxone kits to reverse opioid overdoses.

New2me86/Shutterstock

been established for college graduates wishing to switch to graduate programs in computer science.<sup>66</sup> The Federal Bureau of Investigation's "Operation Wellspring Initiative" builds the cyber investigative capability of the state and local law enforcement community.<sup>67</sup>

DNA analysis continues to demonstrate its extraordinary value. This was illuminated in striking fashion in a recent case involving the arrest of a notorious serial murderer-rapist suspect. The suspect in the decades old Golden State Killer case was identified and arrested through a free online database, "GEDmatch," where anyone can share their data from consumer DNA testing companies to search for relatives who have submitted their DNA. In this particular instance, authorities uploaded crime scene DNA into GEDmatch's database containing nearly one million profiles. The database search revealed several relatives who were the equivalent to third cousins to the crime scene data linked to the Golden State Killer. Other information such as genealogical records, approximate age, and crime locations then allowed investigators to home in on a single key related person (Joseph James DeAngelo).<sup>68</sup>

Of course, DNA has also been instrumental in exonerating persons wrongfully convicted of crimes. "A Case in Point" spotlights a U.S. Supreme Court's decision affecting convicted persons' access to DNA.

Other technologies continue to transform crime control. A free virtual training platform funded by the U.S. Department of Homeland Security provides a setting where school resource officers, teachers, and first responders control avatars and role play to scenarios designed by their own trainers to fit their community, policies, and procedures. Although it is seen primarily as an active shooter training tool, it is an "open sandbox" and can be used for conflict de-escalation, a hostage situation, a fire, or any other type of emergency a school wants to design.<sup>69</sup> Modern advances in technology, such as facial recognition, gunshot detection, unmanned aircraft (drones), body-worn cameras, and digital communications platforms, pose many opportunities for practitioners, including increased efficiency, improved analytical capabilities, and enhanced information gathering and sharing. The challenge is how to balance public safety and civil liberties.

The extent and quality of imprisonment within the United States is a lightning rod for divergence of opinion on crime and punishment along philosophical, sociological, psychological, and economic lines. The United States continues to lead industrialized nations in incarcerating its citizens. Criminologists and policy makers increasingly agree that we have reached a tipping point with incarceration. The year 2018 proved to be historic for criminal justice reform legislation. The FIRST STEP Act (Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act) shortened some unnecessarily long federal prison sentences and enforced rules that improve conditions for people currently imprisoned.<sup>70</sup> While limited to the federal corrections system, the legislation has been a major win for the movement to end mass incarceration. On the same date, the Juvenile Justice and Delinquency Prevention Act was enacted with the overarching purpose of affording core protections for children in states' youth justice systems.<sup>71</sup>

For decades, communities have struggled with the question of how to reduce the number of people with unmet mental health needs entering the criminal justice system. In the United States, jails and prisons are de facto psychiatric hospitals, and correctional officers double as mental health providers.<sup>72</sup> Thirty-seven percent of state and federal prisoners have been told by a mental health professional in the past they had a mental health disorder; among jail inmates, 44 percent had been told in the past they had a mental health disorder.<sup>73</sup> Over 90 percent of police officers on patrol have an average of six encounters with individuals in crisis each month, and 7–10 percent of all police encounters involve people suffering from mental illness.<sup>74</sup> Methods for diverting mentally ill people from the criminal justice system are evolving. These include

a case in **point****The Right to DNA Testing after Conviction**

The due process clauses of the Fifth and Fourteenth Amendments of the U.S. Constitution protect individuals from unfair treatment by federal, state, or local government. If an individual can prove that he or she was unjustly convicted of a crime, fairness seems to dictate that the individual should be exonerated. The right for a review after a conviction, however, is not automatic everywhere in the United States. In some states the prosecutor must grant permission for this review. If a state does not have a law granting prisoner access to DNA testing, the prosecutor can deny the request without even giving a reason.

Such is the case in Alaska, one of three states that do not have a DNA testing law. Alaska has steadfastly refused to turn over DNA evidence to William G. Osborne, who was convicted in 1994 of kidnapping, sexual assault, and assault. Osborne claims that DNA evidence could prove his innocence, and he has offered to pay the costs of a newer sophisticated test of the DNA, a procedure not available at the time of his original trial.

On June 19, 2009, the U.S. Supreme Court ruled in a 5–4 decision that prisoners do not have a constitutional right to DNA testing to challenge their convictions. The Court ruled that the due process clause of the Constitution does not apply in this situation. While acknowledging that DNA can positively identify the guilty while exonerating the wrongly convicted, the justices held that a defendant found guilty after a

fair trial does not have the same rights as a free man. It is important, the Court argued, that the certainty of convictions be final and not undermined. The Court also said that access to DNA evidence for convicted individuals should be left up to the states, most of which have already enacted such laws. As noted, however, Alaska has no such laws, and no prisoner in Alaska has ever been granted permission to obtain DNA evidence after conviction. Until Alaska changes this policy, William Osborne will not be able to introduce DNA evidence in his appeals.

In a Texas case, a hair was the only physical evidence placing a would-be murderer at the scene of the crime. Claude Jones was executed in 2000 for a murder he insisted he did not commit. A hair found at the scene was a critical piece of evidence since Texas law required that there be physical evidence to corroborate other testimony in a capital (death penalty) case. State officials refused Jones's request for DNA testing of the hair, but in 2010, 10 years after his execution, DNA tests were conducted showing that the hair did not belong to Jones. The test did not prove that Jones was not guilty, but without the physical evidence, Texas could not have put him to death—and it is even possible that a jury might not have convicted him. Think about it: Had the tests been done when originally requested, Jones might be alive today.



Taylor Jones/The Palm Beach Post/ZUMAPRESS.com/Newscom

**OBSERVE → INVESTIGATE → UNDERSTAND**

- How and why would a defendant's rights be different before trial and after conviction?
- Why would Alaska not want to retest Osborne?
- Do you think the Supreme Court was correct in its 2009 decision? State your reasons.
- Why would Texas not have wanted to DNA-test the hair in the Jones case?
- If a test is not done before a conviction, why might a state consider it too late to test afterward?

**SOURCES:** *District Attorney's Office for the Third Judicial District v. Osborne*, 129 S. Ct. 2308 (2009); Adam Liptak, "Justices Reject Inmate Right to DNA Tests," *New York Times*, June 19, 2009; Jess Bravin and Jennifer S. Forsyth, "Court Upholds States in DNA Testing of Convicts," *Wall Street Journal*, June 19, 2009; "The Supreme Court's DNA Ruling: Wrong on Rights," *Los Angeles Times*, Editorial, June 19, 2009; "DNA Testing: Supreme Court's Ruling Put Procedure before Justice," *Star-Ledger*, Editorial. [http://blog.nj.com/njv\\_editorial\\_page/2009/06/dna\\_testing\\_supreme\\_courts\\_rul.html](http://blog.nj.com/njv_editorial_page/2009/06/dna_testing_supreme_courts_rul.html) (retrieved July 3, 2009); Dave Mann, "DNA Tests Undermine Evidence in Texas Execution," *Texas Observer*, November 11, 2010; "The DNA Non-Redemption," *Los Angeles Times*, Editorial, November 27, 2010.

law enforcement–mental health liaison programs, increased crisis intervention training of law enforcement personnel, and mental health courts.

In the chapters that follow, all these challenges, among many others, will be discussed in the context of their evolution. It is an exciting time as criminal justice practitioners, educators, and students attempt to forge new solutions to longstanding problems, while at the same time develop strategies to contend with nascent challenges such as those driven by technological advancements.

## SUMMARY

The criminal justice system is based in law. However, laws only reflect what societies agree should be the norm for behavior. What works or is acceptable or is normal in one society, in one place, or in one time period may be considered deviant in another society, place, or period of time. When a law or formal norm is broken, the criminal justice system is set in motion.

The main parts of the criminal justice system are law enforcement, the courts, corrections, and victim services. The actors in these different sectors interact in various ways with the offender and the victim in the process of protecting society, providing a fair trial, and carrying out punishment and rehabilitation.

The challenge is to administer justice consistently, to balance efficiency with fairness, to keep the system up to date, and to avoid undue influence from outside sources, such as the media and interest groups.

## OBSERVE → INVESTIGATE → UNDERSTAND

### Review

#### Illustrate how social norms help us define crime.

- A norm is a rule that makes clear what behavior is appropriate and expected in a particular situation. The term *abnormal* connotes deviance, the violation of a norm.
- Whether we consider a behavior deviant always depends on the context in which it occurs.
- Formal social norms, also called legal norms, are formally written, such as laws that result from a legislative process.
- Violation of formal norms, or laws, sets the criminal justice system in motion.

#### Define crime and explain how it is classified.

- Society defines crime in the same way it defines deviance—by labeling specific behaviors as such. Thus, behaviors considered criminal in one country (or place or time) may not only be legal in another country (or place or time) but the norm.
- One way of classifying crimes is as *mala in se* (an “evil unto itself,” a behavior that is considered morally wrong). But no act or behavior is an inherently criminal act; society only labels it as criminal.
- Crimes can also be classified as *mala prohibita* (acts that are criminal because they are prohibited by law). *Mala prohibita* crimes reflect public opinion at a point in time.
- The consensus perspective of crime views laws defining crime as the product of social agreement or consensus about what criminal behavior is. The conflict perspective of crime views the definition of crime as one outcome of a struggle among different groups competing for resources in their society.

#### Describe the consequences of crime for the offender and the victim.

- Those who break the law must face sanctions, which are used to reinforce people’s conformity to norms. Sanctions can be positive or negative, and they can be formal or informal.
- Victims generally suffer some sort of loss or injury or even death. When victims are neglected or abused by the criminal justice system, their suffering worsens.

#### Outline the basic structure of the criminal justice system.

- The three major institutions of the criminal justice system are law enforcement, the courts, and corrections, with victim services additionally involved in these major components.

- The police are called upon to do far more than protect and arrest. Law enforcement officers are expected to correct many of society’s problems and are entrusted to use force when necessary.
- The U.S. judiciary consists of a dual court system made up of state courts (trial and appellate courts) and federal courts (district courts, appellate courts or circuit courts where appeals are heard, and the U.S. Supreme Court).
- Corrections is the systematic, organized effort by society to punish offenders, protect the public, and change an offender’s behavior. Correctional efforts include incarceration, probation, parole, treatment, and community service.
- Victim services offer a broad array of services within and outside government agencies to help the victim, including shelters and transitional housing programs, counseling services, 24-hour hotlines, and the appointment of a victim advocate to assist with legal needs.

#### Describe key models of the workings of the criminal justice system.

- Criminal justice professionals have discretion, which results in a filtering of cases so that not all of them end up in court.
- The wedding cake model helps explain what cases make it through the criminal justice funnel. The bottom layer (4) represents the vast majority of cases (largely misdemeanor and infraction cases), which are dispatched rather quickly. Each of the three layers on top represent more and more serious cases, with the most celebrated cases in the top layer (1) getting the most attention and resources.
- The crime control model emphasizes the efficient arrest and processing of alleged criminal offenders.
- The due process model values individual rights and procedural protections for the accused at all stages of the justice process.

#### Describe how criminal justice is influenced by public opinion, the media, politics, and policy.

- Public fears of crime are often inflated and misplaced. The level of fear we experience can be affected by factors such as gender, age, past experiences with crime, ethnicity, income, educational attainment, and the area in which we live.
- Media coverage of crime inflates levels of fear by presenting exaggerated or false perceptions about crime and criminal behavior. Media reports disproportionately focus on violent and sensational crime.