Criminal Justice Series

L.T. Winfree, Jr. • G.L. Mays • L. Fiftal Alarid

Introduction to Criminal Justice

The Essentials

THIRD EDITION

Winfree
Mays
Alarid

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L. Thomas Winfree, Jr., New Mexico State University
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Leanne Fiftal Alarid, University of Texas at El Paso

Student-centric and informative without being encyclopedic, the revised Third Edition of ***Introduction to Criminal Justice: The Essentials***, is a seamlessly original text that focuses on understanding how the nation's criminal justice system functions. Drawing from deep wells of teaching experience, this author team has created the text that they've always wanted for their own classes. Students are able to grasp the material intuitively, while still being challenged to think, read, and write critically.

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10053028-0003

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ISBN 978-1-5438-4026-1

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Third Edition

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Published by Wolters Kluwer in New York.

Wolters Kluwer Legal & Regulatory U.S. serves customers worldwide with CCH, Aspen Publishers, and Kluwer Law International products. (www.WKLegaledu.com)

Cover image: IStock.com/Lucian3D

To contact Customer Service, e-mail customer.service@wolterskluwer.com, call 1-800-234-1660, fax 1-800-901-9075, or mail correspondence to:

Wolters Kluwer
Attn: Order Department
PO Box 990
Frederick, MD 21705

Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-5438-4026-1

Library of Congress Cataloging-in-Publication Data

Names: Winfree, L. Thomas, Jr., 1946- author. | Mays, G. Larry, author. | Alarid, Leanne Fiftal, 1967- author.
Title: Introduction to criminal justice : the essentials / L. Thomas Winfree, Jr., Professor Emeritus, New Mexico State University, G. Larry Mays, Regents Professor Emeritus, New Mexico State University, Leanne Fiftal Alarid, Professor, Criminal Justice, University of Texas at El Paso.
Description: Third edition. | New York : Wolters Kluwer, [2022] | Includes bibliographical references and index. | Summary: "Introductory text for criminal justice"—Provided by publisher.
Identifiers: LCCN 2021042850 (print) | LCCN 2021042851 (ebook) | ISBN 9781543840261 (paperback) | ISBN 9781543840278 (ebook)
Subjects: LCSH: Criminal justice, Administration of—United States.
Classification: LCC HV9950 .W57 2022 (print) | LCC HV9950 (ebook) | DDC 364.973—dc23
LC record available at https://lccn.loc.gov/2021042850
LC ebook record available at https://lccn.loc.gov/2021042851

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To my family and friends, who have made this journey all the more interesting

—L. Thomas Winfree Jr.

To Mina, Robert, and Knox and Lucy, Oliver, Cooper, and Maggie from their crazy grandpa

—G. Larry Mays

To all the UTEP students along the border, who inspire others with a dose of daily gratitude

—Leanne Fiftal Alarid

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PREFACE AND ACKNOWLEDGMENTS

Over the course of our combined 100-plus years of undergraduate teaching, we have reviewed and used many different introductory textbooks for criminal justice. Indeed, two of us, Larry Mays and Tom Winfree, began our undergraduate studies during the 1960s and 1970s, when there were few colleges or universities that even offered coursework in this subject. By the mid- to late-1970s, as Larry and Tom began teaching in criminal justice departments, introductory textbooks were very new and more resembled sociology of criminal justice textbooks than ones dedicated to the emerging discipline of criminal justice. For her part, Leanne Fiftal Alarid is a product of the second generation of introductory criminal justice textbooks, published in the 1980s. Leanne, like her two coauthors, has contributed to the discipline of criminal justice, through both research and textbook authorship. In short, we began this effort with a wealth of experience and knowledge about the discipline of criminal justice, in both its contemporary form and its historical context.

More than a decade ago, we began a discussion about what we thought was missing at the introductory level. We have taken our experiences as students and teachers to heart and crafted what we believe is a textbook that is student-centric and informative without being encyclopedic. We relate the origins and development of criminal justice as an academic area of study and its potential as a workplace, since an entry-level position within the criminal justice system is often an eventual career choice for those beginning such a course of study. We do not sugarcoat the work world of criminal justice, revealing it instead as it is described and understood through the best scholarly evidence available. As authors, we are a mix of former practitioners and current academics who believe that whether the readers of this textbook seek careers as scholars or practitioners or simply wish to be better-informed citizens of the community, it is best to make decisions that are based on carefully reasoned arguments and highly verified evidence. This perspective guided us in the preparation of this textbook.

Our textbook is a departure from many other introductory textbooks currently available. First, this is an *essentials* book. As

you hold the book or view it electronically, you know that this subtitle does not literally translate as "shorter" or "the basics." Rather, the material we included in this textbook is what we believe is necessary to achieve the following goals.

- First, the text provides the casual readers with sufficient information and understanding of how the nation's criminal justice system functions so that they might be better-informed citizens.
- Second, and along the same line, for students of this subject who intend to further their studies, this text establishes a foundation for the essential tools required to advance their interest in criminal justice. These tools include general critical thinking skills, an analytical and evidence-based approach to the subject matter, and a generalist perspective that can be expanded on by advanced studies in criminal justice.
- Third, for those who intend to pursue a career in criminal justice, this book gives unvarnished, balanced, and current insights into how the system should function and how it does function. This information should allow the preservice individual or the current CJS employee seeking advancement through academics to approach his or her respective goals in a better-informed manner.

How do we achieve these goals? The answer to this question is straightforward. We employ four specific teaching devices. First, we emphasize the historical development of all the component parts of the nation's system of criminal justice, including its evolution as an area of academic study. As George Santayana famously stated, "Those who cannot remember the past are condemned to repeat it" (1905: 284). As you will learn in this text, many criminal justice pundits and even so-called experts have shown that there is much truth in Santayana's aphorism. As importantly, and as observed by William Shakespeare in his play *The Tempest*, "What's past is prologue." For those studying criminal justice, this quotation means that we need to understand the past, since history influences and sets the context for the present. The past is often the path to the future. The truth of this statement will also become clear as, for example, we look at such things as the militarization of policing agencies throughout history and societal tinkering with various punishments intended to reduce crime. A historical perspective is essential if one is to understand more fully where we are now in terms of the administration of justice and where we are headed.

Second, throughout the text we encourage the reader to develop a cross-national or comparative orientation. Whether studying criminal justice in a historical context, as with the development of

policing in England and Wales or the evolution of Roman laws, or in its contemporary variant, as with examples of how other nations approach the same crime and justice issues that confront the United States, we strongly encourage students to look beyond this nation's borders. Crime is increasingly a global issue, respecting neither international borders nor geographic barriers. When looking at crimes with the global reach of human trafficking or artwork stolen by the Nazis during World War II that later surfaces in a national gallery, having a comparative criminal justice perspective informs our responses to a wide range of criminal activities. Indeed, the final chapter of this book explores a series of such concerns, all through a comparative lens.

Third, we present this material in a consumable, student-friendly fashion. We provide many definitions. We relate the information in as nontechnical a fashion as possible but build on the readers' early knowledge throughout the text, so that by the final chapter, they are able to apply the lessons of the previous thirteen chapters in the exploration of this final set of national and international challenges.

The fourth teaching device we employ—one related to issue of student consumption—is the inclusion of a series of review questions at the end of each chapter. These are more than make-work assignments. In most cases, the answer to the question does not lie in the regurgitation of a series of facts found within the text. In some cases, readers may need to look more broadly for supporting evidence or provide their own analysis. We are strong proponents of the exercise and development of critical thinking skills, and these questions should help to hone those of readers on the whetstone of criminal justice. In this vein, we also include critical thinking questions, ones for which there may not be a "right" or "wrong" answer, but which will cause the students to think about the issues at hand.

A brief review of the text's content may prove useful at this juncture, if only to give readers a sense of what lies ahead.

Chapter 1 ("Criminal Justice: An Overview"). This chapter provides a definitional framework for the remaining chapters. A key part of this chapter is simply defining justice and criminal justice. While these terms may seem intuitively straightforward, Chapter 1 reveals that this is far from the case as it explores their more subtle and complex natures. The chapter ends with an overview of the meaning of the criminal justice system in contemporary society.

Chapter 2 ("Defining and Reporting Crime"). Crime is more prevalent today than ever before, right? In fact, the rate of crime is lower

today than in previous decades, even if the volume of crime is, in some cases, higher. Readers who think that this answer is a case of weasel wording should read Chapter 2 very carefully. What they will learn is that there are many ways to measure and report crime. Knowing how much crime there is and the trends in its occurrence is central to understanding how a society responds to it.

Chapter 3 ("Criminal Law and the Legal Environment"). It is often said that we are a nation of laws, and this chapter provides an overview of criminal law and the broader legal environment within which criminal law is created, interpreted, and enforced. To fully understand the criminal justice processes in the United States, readers must have at least a basic appreciation for key concepts embodied in criminal law.

Chapter 4 ("An Introduction to Policing"). For many students of criminal justice, this chapter signals the beginning of the core of the course. It is here that they will begin to appreciate the true impact of history on the evolution and development of a central piece of the criminal justice system. In addition, this chapter introduces them to contemporary policing, including its goals and objectives, structure and organization, and activities.

Chapter 5 ("U.S. Law Enforcement Agencies"). Few textbooks contain the breadth of coverage on law enforcement that we provide. From local and state agencies to the range of federal responses to crime and justice, this chapter reveals a great deal about the agencies and the people who populate them, serving their communities and the nation.

Chapter 6 ("Issues in Law Enforcement"). If a textbook claims to cover all the issues related to a single element of the criminal justice system, that claim is probably false. In this chapter, we reveal essential information about the following topical areas in law enforcement: professionalism, corruption, use of force, and police-judiciary interactions. There are certainly other issues confronting law enforcement agencies today, as instructors may indicate during the course of covering this content area. Indeed, Chapter 14 discusses at least one more, police militarization. Chapter 6 is intended to give readers an understanding of several of the key problem areas that confront police in the 21st century.

Chapter 7 ("Local, State, and Federal Courts"). Many people have only a passing familiarity with this nation's courts. Usually that knowledge comes through appearing for a traffic ticket or after

receiving a summons to serve on a jury. This chapter provides a review of the different kinds of courts found at all three levels of government in the United States. In addition to giving basic definitions, it also explains the functions of different types of courts at all levels.

Chapter 8 ("Trials and Trial Procedures"). Much of what the average person knows about court processes comes from television and movie depictions of various aspects of trials. Some of this information is accurate, and some is inaccurate (to provide greater drama). This chapter follows criminal cases through the various stages that occur when cases go to trial. However, one important point is worth emphasizing again and again: Somewhere between 80 and 90 percent of all of the criminal cases filed in this country are resolved with something other than a trial, most through a process of negotiated settlement known generally as plea bargaining.

Chapter 9 ("Issues in the Judiciary"). As with the other "issues" chapters, there is no end to the possible questions and controversies that could be covered here. We have chosen to focus on how attorneys are provided for the majority of criminal defendants who cannot afford to hire their own; how judges are selected in the United States and their qualifications; and how we discipline judges who misconduct themselves in their personal and professional lives. Although other issues are included, three in particular are likely to spark interest and classroom discussion: the use of scientific evidence in court (such as DNA testing), wrongful convictions and the impact they have on the perception of justice, and the lingering controversies surrounding the death penalty. We expect this chapter (along with the other issues chapters) to draw students and instructors into serious discussions.

Chapter 10 ("Probation and Community Corrections"). Since the vast majority of sentenced offenders serve their correctional sentence on probation in the community, we thought it important to introduce the most common ways that individuals serve correctional sentences while living at home. We address how restitution, fines, and community service are used to financially compensate victims and help the community. We also discuss technological advances in electronic monitoring of offenders, including the ramifications that technology has for the increased chance of registering probation violations and how this has contributed to net widening and jail crowding.

Chapter 11 ("Institutional Corrections"). This chapter reviews the historical background of punishment and penitentiaries to address

the full context behind how penitentiaries began and how incarceration rates in the United States became so high. Students will understand how the United States is different from other Westernized countries in response to crime. This chapter covers the different types of correctional institutions, including jails, prisons, youth detention centers, and private facilities, all of which have the primary goal of depriving offenders of their liberty and various freedoms as part of their sentences.

Chapter 12 ("Living and Working in Prison"). Students of criminal justice have always been interested in what prison might be like; often they believe that prisoners have an easy life. This chapter challenges that argument and gives students a glimpse into life behind bars. They will read what doing time is like, why prisons can be violent and unsafe places, why decent prison conditions are important, and how women's prisons are different. The goal of this chapter is to enlighten the student on the importance of having a safe environment for the correctional staff members who make up the foundation of the prison environment.

Chapter 13 ("Issues in Corrections"). The corrections system currently faces a multitude of challenges. This chapter examines five of the most important issues of our time that include why racial/ethnic disparities exist in corrections, why a disproportionate number of persons with mental illnesses are in jails and prisons, and what happens when prisoners leave early to reenter the community. We highlight the effectiveness of correctional treatment and of imprisonment itself in deterring crime.

Chapter 14 ("The Future of Criminal Justice: Making Sense of It All"). This chapter is ambitious. As in other chapters in which central concerns of the criminal justice system components are discussed, we selected topics that experts tell us will be areas of concern for years if not decades: global crime, models or theories of justice, policing, judicial decision making, corrections, and juvenile justice. We examine the topical issues and how they are informed by cross-national or comparative criminal justice studies. Our intent in this chapter is to leave readers with a greater appreciation for what they will confront as criminal justice consumers, scholars, and practitioners.

All textbook authors owe debts. No book is simply the work of those writing it. This book is no exception. To this end, we thank the tens of thousands of students who have sat through our lectures, and in

the case of Leanne Fiftal Alarid, continue to come to class! They inspired us to write a textbook that would hold readers' attention and inform them.

We also want to acknowledge the encouragement of the folks at Wolters Kluwer, especially Stacie Goosman, Managing Editor of Wolters Kluwer's Legal & Regulatory textbooks. We extend our thanks to Elizabeth Kenny, of The Froebe Group, for guiding us through the editorial process and preparing the manuscript for production. Finally, we would like to recognize the work of project editor, Melanie Field, and copyeditor, Lisa Churchville. Their collective efforts during various production stages helped to improve our work. However, any and all shortcomings in this textbook remain the responsibility of the authors.

Is this a perfect introductory textbook? Probably not. Nevertheless, it is one that we wish we had had access to as students and professors earlier in our careers. It takes the student on an informed journey across several thousand years of societal responses to crimes and criminals. We ground this journey in the most relevant and recent insights we have on these issues. It is our hope that this text serves to stimulate students' appetite for insights into criminal justice and that they seek even more definitive answers for the questions that we pose—and ones that occur to them as well. Enjoy *Introduction to Criminal Justice: The Essentials*, and enjoy the search that is about to begin. We are still on that journey. Perhaps we will meet at some juncture.

PART I

Fundamentals of Criminal Justice

CHAPTER 1

Criminal Justice: An Overview

LEARNING OBJECTIVES

At the conclusion of this chapter, you should be able to:

- Understand the origin and evolution of key terms associated with crime and justice.
- Define the key terms associated with the contemporary administration of criminal justice.
- Understand and correctly employ all the terms linked to criminal justice, such as administration, process, system, and the like.
- Describe the component parts of the criminal justice system and their interrelationships.

INTRODUCTION

For all recorded history—and perhaps even before—stories of crime and justice have fascinated people. The "why" behind this fascination could fill several books. Tales of wrongdoings and wrongdoers are the foundation of humanity's nightmares and daydreams alike. Humans seem to fear both the acts and the actors. Nonetheless, they are drawn to them, if only to know why the latter engage in the former. Moreover, acts of rule breaking become part of our folklore and culture. For example, the world's largest religions—Christianity, Judaism, Islam, Hinduism, and Buddhism—and many others share a concern with both justice and injustice. Nearly all of them describe sacred rules—laws, really—handed down by a supreme being or, in some cases, supreme beings, along with the punishments accorded those who violate them. Often these religions use parables or stories to lay out the rule, examples of their violation, and the appropriate punishments for rule violators. Cain killed Abel, becoming, in the Jewish, Christian, and Islamic traditions, the first murderer. Interestingly, God did not kill Cain for his wrongful acts, which included not only a murder but also lying about it. Indeed, some scholars view this latter act as the greater sin. When asked if he, Cain, knew of Abel's whereabouts. Cain replied: "I do not know: Am I my brother's keeper?" For these acts, God cursed Cain and marked him and his descendants with a visible stigma to signify His displeasure at Cain's sins. It is interesting to note that modern Judeo-Christian and Muslim scholars are split on the meaning of the story of Cain and Abel (Byron 2011; Kugler 1998). Is it about fraternal jealousy leading to murder or being faithful to the Creator or both? Or is it about which work is most valued, the farmer or the shepherd? That is often the case with such moral tales: they have multiple meanings across time.

Religion is not a society's only source of information about crimes and criminals. Balladeers, poets, and assorted secular story tellers have endowed nearly every culture with stories of crimes and punishments. Writers through the ages have given us such tales, whether intended to educate the masses or as pure entertainment; in most cases, right prevails over wrong, and justice triumphs over injustice. In ancient Greece, for example, Sophocles gave us Oedipus Rex, who kills Laius, his father, and marries Jocasta, his mother. Oedipus learns these facts only after he kills them both, and then he blinds himself and is driven into exile by the community. The medieval poet and philosopher Dante Alighieri's *Divine Comedy*, written in the early 14th century, came to define the fates that await wrongdoers of all sorts, but especially what happens within the nine circles of hell reserved for sinners. Many of Shakespeare's

late 16th- and early 17th-century historical and tragic plays involved deceit, crimes on an epic scale, and eventually justice. In this regard it is interesting to note that in Shakespeare's *Hamlet* the characters of King Claudius and King Hamlet are parallels of Cain and Abel (Hamlin 2013: 154).

This cultural obsession with crime and justice—including the criminals, their victims, and the fates of both—continues today, in both fictional and "real life" crime dramas, whether the medium is a book, television drama, or motion picture. Various incarnations of such shows as *CSI: Crime Scene Investigation* and *NCIS* have become worldwide phenomena and virtual franchises (CBS Corporation 2010). They influence how the public sees criminal justice system operations, often relaying incorrect information, especially about the processing of forensic evidence and its availability at all crime scenes (Lovgren 2004). There is even something called the "***CSI* effect**," which critics of such shows charge causes juries to expect DNA forensics and other scientific evidence, without which they are less inclined to believe the charges against criminal defendants, although scholars disagree as to this claim's veracity (cf., Lawson 2009; Schweitzer and Saks 2007; Shelton 2008). In fact, a recent meta-analysis, a type of study that explores the conclusions of many studies, concluded that at most there is a small impact on jurors' expectations and verdicts (Schanz and Salfati 2016), while even more recent studies find little or no effect on jury decisions (Klentz, Winters, and Chapman 2020; Maeder and Corbett 2015). Despite these research findings, however, popular beliefs about the CSI effect, often reinforced by the mass media, remain strong.

"*CSI* effect": the highly contentious notion that juries and other decision makers in criminal justice case processing have come to expect either supporting or exculpatory scientific evidence, including DNA testing, in nearly every criminal case

Even social media, general news media, and the quickly disappearing print media are not exempt from the time-honored dictum: If it bleeds, it leads. Crime stories—and the Bible—are among the best-selling books on the market today. Real-life and fictional accounts of crime, no matter how they are presented to the public, account for a large portion of the news and entertainment businesses across the globe.

Clearly, society cannot get enough of information, factual or otherwise, about crime and justice—whether millennia ago or today. Does the same level of interest exist for *real* criminal justice? Is it as interesting as the fictional accounts or those represented and packaged as real but that often include more than a little "literary license"? Does fiction get in the way of understanding the administration of justice in contemporary society? When do these fictions speak to reality?

With these historical and contemporary contexts in mind, we have three main goals for this textbook. First, we frame the questions and answers surrounding crime, criminals, and justice in

the terminology of the academic disciplines of criminal justice and criminology. We discuss more about this framework later in this chapter. The information contained in this text may challenge some of your existing beliefs about crime and justice. If it does not challenge some of your beliefs or add to your understanding of criminal justice, we have not done our job well enough. Second, we employ a systemic model for viewing the criminal justice process that is based on the best current research on the various topics captured by this term, including law, police, courts, and corrections. Third, as we seek to achieve closure with the first two elements, we hope to increase your interest in criminal justice, whether this is your only class on the subject or the beginning of a career-long (or lifelong) search for insights into crime and justice. A good place to begin this quest is to define justice.

DEFINING CRIMINAL JUSTICE

Quite simply, justice is an abstraction—something that by itself is hard to understand or describe to another person, even if we think we know what justice is. Justice has many meanings, and even with shared definitions, people can look at the same events and outcomes and come to different conclusions about whether justice was served. Taken by itself, then, the term "justice" exists apart from concrete realities, specific examples or instances, or other ideas that ground it to the world in which we live. For example, at its most basic level we could define the noun justice as fairness or reasonableness in the way people are treated or decisions about them are made. Clearly, we need a bit more information than what is captured by this definition if we are to use this term in a meaningful way.

Legal Justice

Box 1.1 reviews several definitions of justice. The modifiers are meaningful, designating the kind of justice sought. Moreover, each form defines a rarely achieved ideal state, leaving the door open to forms of injustice or situations without fairness. In defining criminal justice, the focus of this text, we should remember these other forms. Indeed, several of them, including retributive and restorative justice, enjoy some prominence in any discussion of criminal justice. What is generally missing from them is an important legal element. Codified law is not essential for the enactment of distributive, contributive, or restorative justice, and, to a lesser extent, it is not even necessary for retributive justice. **Legal justice**, an essential part of criminal justice, refers to fairness as specifically defined by

Legal justice: the fairness being sought that is specifically defined by law

law. It may involve other forms of justice, including the types we have described, but at its core, criminal justice is about fairness based in the laws of the land. What, then, is a crime, and who is a criminal?

Crime, Criminals, and Criminal Justice

Laws as written codes are a topic explored in detail in Chapter 3. It is sufficient to say at this point that laws define the forms of appropriate or inappropriate behavior for those who come under the authority of those laws, which is sometimes called **jurisdiction**. In most cases, political geography defines jurisdiction as a physical area under the control of those persons mandating, creating, and enforcing the laws. Those persons could be sovereigns, legislatures, or city councils. Criminal law is a unique form of law—one that protects the entire community and individuals within it from harm and injury and, when such acts occur, seeks punishment (retributive justice) for those responsible. Criminal law must specify the undesired acts, the methods by which the legal system can lawfully demonstrate that they occurred, at what point a specific person or persons engaged in such acts, and the punishments or sanctions for the acts' commission.

Jurisdiction: the right of a recognized legal entity to govern or otherwise exert control over a specific geographic area

Box 1.1 Four Forms of Justice

Distributive justice refers to a form of economic justice whereby all members of a society fairly share the accrued benefits, services, rewards, and resources. Of course, there may be disagreement as to what is fair, which can lead to conflict between individuals and groups in each society. If people feel shortchanged in the distribution of resources and that they disproportionately carry its burdens, they will often act out against those who seem to be in control. Social justice is a form of distributive justice. Interestingly, while some pundits in U.S. society might see distributive justice as part of communism, it is also central to Islam, Judaism, Christianity, and other world religions.

Distributive justice: a form of economic justice whereby the benefits, services, rewards, and resources accrued by the society are shared fairly with all members

At the polar extreme from distributive justice, but rarely considered, is **contributive justice**, which looks not at what people can expect from society, but rather what society can expect from them. John F. Kennedy's famous inaugural speech on January 20, 1961, embodied this difference: "[A]sk not what your country can do for you—ask what you can do for your country." According to this form of justice, we, as individuals, have an obligation to contribute to the collective well-being of society to the best of our abilities. Such ideals

Contributive justice: a form of justice that essentially focuses on what the individual can bring to the group or society

(continued)

are rarely met, and what we are often left with is something akin to neither contributive justice nor distributive justice.

Retributive justice is associated with retribution, or punishment for the sake of punishment, with no other goals in mind. It is backward-looking in that an act committed in the past receives a deserved punishment in the present for no other reason than that punishing the actor is the correct response. This is not the same as vengeance since the object of scorn is not a specific individual or group but rather a behavior defined as illegal by a government agency acting in the name of the people. To be truly retributive in form, the punishment must also be proportionate, equal to the offending act.

Retributive justice: associated with retribution, or punishment for the sake of punishment alone, with no other loftier goals in mind

Retributive justice essentially is not *individual* revenge but rather a form of highly stylized, procedurally correct *societal* revenge, captured by the phrase "Let the punishment fit the crime." In opposition to this perspective is **restorative justice**. Retributive justice sees crimes as wrongdoings committed against the state or nation; restorative justice refocuses society's energies back on the crime victim but includes both the perpetrator and the larger community. Restorative justice sees rule violations as rips in the social fabric—ones that, if not addressed, threaten to tear the community apart. Repairing social harm is the motive of restorative justice. The harm that is the object of repair is between the offenders and victims and between both of these groups and the general society. These processes occur at the micro level, as in victim-offender mediation programs that seek to restore the balance in a local community, or at the macro level, as in truth-and-reconciliation commissions that seek to overcome such horrific events as genocide, also called "ethnic cleansing," and other war crimes.

Restorative justice: an approach to justice that considers the needs of the victim, the offender, and the larger community; provides a means of individual and community healing for all three in the aftermath of a crime

This description presents four forms of justice, yet no single one truly defines criminal justice. Instead, they form the philosophical bedrock from which many in society draw their reactions to criminals and their views of the justice system, and as such, they are essential to a complete understanding of criminal justice.

SOURCES: Murphy 1992; Sayer 2009; Weitekamp 1993; Zehr and Mika 2017.

To "break" a law—not adhere strictly to the formal written conduct norm embodied in that law—is to commit a crime. A police officer may suspect this is the case but cannot state definitively that something is a crime; at best, he or she may have probable cause that a crime has been committed and that the identified suspect did the deed. A prosecutor then decides to proceed against the suspected offender and brings the allegations of wrongdoing before an impartial tribunal for a preliminary or grand jury hearing. A judicial officer (or grand jury) weighs this evidence and decides whether there is sufficient factual basis to believe a crime has been committed; if the answer is yes, a trial is the next step. At trial, a

person (a judge, in a bench trial) or a group of citizens (jurors, in a jury trial) considers the questions and facts in the matter: Has a crime been committed, and does the evidence prove beyond a reasonable doubt that the accused person is guilty of the crime? (We discuss these issues in greater detail in Chapter 8.)

For its part, "criminal" is also a unique word with several important meanings. In the sense that the word is used in criminal justice, "criminal" does not refer to the person who engages in crime, as you might think. Instead, "criminal," as used in the term "criminal justice," is an adjective that simply means "of or relating to the violation of law or crimes." Thus, **criminal justice** refers to the entire sociolegal process whereby fairness is sought in matters involving laws that define what is a crime, as well as what happens to those found to be engaged in such activities (see Pound 1930). Interestingly, as we next explore, the addition of the noun "system" to "criminal justice" as a way of referring to the entire process of criminal justice administration is relatively new, with its origins spread over roughly 100 years of the nation's crime history.

Criminal justice: the entire sociolegal process whereby fairness is sought in matters involving laws that define what is and is not a crime, as well as what happens to those found to be engaged in such activities

Criminal Justice: The Search for Identity

From our vantage point in the third decade of the 21st century, we could easily conclude that the term "criminal justice system" has been in use since the first formal responses to crime through a primitive judiciary. Perhaps a medieval king's appointment of local judges to rule on matters of law and carry out the king's justice far from the royal court created such a system. You might also think that it is a product of the 19th or certainly the 20th century when formal policing and an expanding system of prisons brought the final pieces to the administration of justice. There is some truth in each of these statements, as later chapters make clear. After all, we can hardly appreciate our current system of justice unless we know what preceded it, why those changes took place, and what these lessons suggest about the future.

Had you been a student of crime and justice prior to the end of the 19th century, it is likely that you would have sought answers in the field of medicine. You also might have investigated the emerging academic and practical discipline of psychology. Of course, there also existed several strange "sciences" such as physiognomy and phrenology, by which facial features or the shape of the head supposedly revealed a person's criminal tendencies. By the third decade of the 20th century, law schools and sociology departments around the world began to view **criminology**—defined as the scientific study of crime, criminals, and society's response to both—as an appropriate area of academic study. Law schools in particular saw criminal

Criminology: the scientific study of crime, criminals, and society's response to both

law as a natural part of their curriculum. Nowhere, however, was anyone studying or even talking about something called the criminal justice system. Crime and delinquency were receiving a great deal of attention on the local level as cities and states attempted to respond to adult criminals and delinquent youths, but these efforts were not systematically organized into something that we would recognize today as the criminal justice system.

In the 1930s, academic programs emphasized the more practical aspects of "crime work." An academic law enforcement program emerged first at the University of California at Berkeley in the 1920s, followed by programs at San Jose State University (1930), Indiana University (1935), and Michigan State University (1935); however, such programs were slow to take hold in other academic centers of higher learning. Researchers at these institutions studying crime tended to address local rather than national crime problems. The reason for this local focus was twofold: First, local crime information was needed to address appropriate local responses, and second, there simply was no available database with which to examine crime across the nation.

In the years preceding World War II, citywide crime commissions and some congressional committees investigated corruption and organized crime, as well as other emerging crime trends. For example, in 1919 the Chicago Crime Commission, an independent "watchdog" group of local business leaders, began tracking and reporting on organized crime, street gangs, and related crime activities. This group is famous for creating the first "public enemy" list in 1930, with Al Capone as "Public Enemy Number 1" (Sifakis 2005). The FBI subsequently adopted the public enemy list in its first major coordinated anticrime effort in 1933 (Burrough 2004), eventually morphing in the 1950s to the "Ten Most Wanted" list. For its part, Congress held hearings regarding organized crime, perhaps the most famous of which Senator Estes Kefauver chaired from 1950 to 1951. However, despite the work of these crime commissions and congressional hearings, the coordination of crime-fighting activities or information gathering was not a national priority through the 1950s, regardless of public admissions that even the FBI could not control interstate and organized crime (Friedman 2005).

Finding the Criminal Justice System

Changes began to occur in the 1960s, just as the nation wrestled with several divisive social and political issues, including the increasingly unpopular Vietnam conflict and the civil rights movement that was galvanizing the nation's attention to the plight of African Americans 100 years after emancipation. In July 1965, President

Lyndon B. Johnson, expanding the social agenda of John F. Kennedy and responding to concerns about increasingly violent civil unrest throughout the nation, established the President's Commission on Law Enforcement and Administration of Justice through an executive order. This commission's goals included fighting crime and reducing occurrences of injustice. As the group's chair, Attorney General Nicholas Katzenbach, wrote, establishing the commission recognized "the urgency of the Nation's crime problems and the depth of ignorance about it" (President's Commission on Law Enforcement and Administration of Justice 1967a).

The final report, titled ***The Challenge of Crime in a Free Society***, hereafter referred to as the *Report*, was the work of 19 commissioners, 63 staff members, 175 consultants, and hundreds of advisors. It made more than 200 recommendations, many of which subsequently became common practices, significantly changing the administration of justice and the federal government's involvement in the overall process. Indeed, the *Report* became the catalyst behind the **Omnibus Crime Control and Safe Streets Act of 1968**, a congressional act that, once signed into law, helped to change the role of the federal government in shaping local, state, and federal crime-fighting efforts. The federal government was no longer a sideline observer, particularly in matters that influenced the nature and extent of justice administered at the state and local levels. In the past, entities such as the Federal Bureau of Investigation (FBI) only rarely became involved in nonfederal cases, functioning largely in a support role for the creation of the now famous Uniform Crime Report (UCR), a topic to which we return later in this text.

The Challenge of Crime in a Free Society (1967): a wide-ranging document prepared by area experts concerning the administration of justice in the United States that provided the foundation for much of what we call criminal justice today.

Omnibus Crime Control and Safe Streets Act (1968): a sweeping anticrime act of Congress that created a number of federal bureaucracies, including LEAA; suspended interstate trade in handguns; and provided direct funds to deal with urban riot control and organized crime

In the years following publication of the *Report*, new federal bureaucracies coordinated the distribution of crime-fighting funds and provided direct assistance to state and local governments. The crime information vacuum that, outside the UCR, had existed since the nation's founding began to fill with the output of other federal agencies whose job it was to collect, analyze, and disseminate detailed information about crime and criminals. The specifics of these changes are the content of subsequent chapters. It is sufficient to note here that we can mark the history of contemporary criminal justice as beginning in 1965 and, in particular, as reflected in Box 1.2, the rapid growth of criminal justice as an academic discipline.

Outside of these developments, perhaps the most important contribution of the Commission and the *Report* was an important linguistic change. As mentioned previously, we define criminal justice as the entire sociolegal process whereby fairness is sought in matters involving laws that define crimes, as well as what happens to those found to have engaged in such activities. The Commission report

Box 1.2 The Forces Behind the Growth of Academic Criminal Justice

While we acknowledge that the term "criminal justice" is itself a relatively new one, criminal justice as an academic discipline shares an equally recent origin, although, as previously noted, some programs have existed since before World War II. What changed in the 1960s were the monetary incentives linked to the **Law Enforcement Assistance Administration (LEAA)** created by the Omnibus Crime Control and Safe Streets Act of 1968. **The Law Enforcement Education Program (LEEP)** was also part of this congressional act. Congress intended for LEEP to provide college-educated police and correctional officers, who would usher in a new era of enlightened and informed criminal justice. As the U.S. General Accounting Office noted in 1980,

> Since 1969, the Law Enforcement Education Program (LEEP) made over $278 million in loans and grants without adequate management controls. The program was originally established by Congress in 1968 [for] the purpose of assisting those working in law enforcement or planning to work in law enforcement to obtain a higher education. . . . The grants and loans are canceled without repayment if the recipient works for a publicly supported law enforcement or criminal justice agency for a specified period. Otherwise, the recipient must repay the grant or loan with interest. (1980: i)

In the wake of the *Report* and owing to political pressures exerted in 1982 by Ronald Reagan's more fiscally conservative administration, the federal government abolished LEAA (and LEEP). Its successor agencies, the Office of Justice Assistance, Research, and Statistics (1982-1984) and the Office of Justice Programs (1984-present), have been less concerned with education and more concerned with evaluating criminal justice policies and practices.

The combined legacy of LEAA and LEEP, however, is indisputable. In 1960, there were only 40 associate and 15 baccalaureate and graduate programs in criminal-justice-related areas across the nation. A decade later, there were more than 1,000 such programs, nearly all of which received funds from LEEP. The current state of criminal justice academic development—there are well over 1,500 associate, baccalaureate, master's, and doctoral degree programs—owes much to this initial infusion of federal funds into the academic arena.

SOURCES: U.S. General Accounting Office 1980; Office of Justice Programs 1996; Senna 1974; Southerland 2002.

Law Enforcement Assistance Administration (LEAA): a part of the federal government from 1969 to 1982 that administered funding to state and local law enforcement agencies

Law Enforcement Education Program (LEEP): a part of LEAA intended to provide free or nearly free college and university education for police and correctional officers

provided the first succinct definition of the **criminal justice system** as "an apparatus society uses to enforce the standards of conduct necessary to protect individuals and the community" (President's Commission on Law Enforcement and Administration of Justice

Criminal justice system: an apparatus society uses to enforce the standards of conduct necessary to protect individuals and the community

1967a:7). The *Report* also described in detail how the various component parts of that system (e.g., entry into the system, prosecution and pretrial services, adjudication, sentencing/sanctions, and corrections) worked, calling it "A General View of the Criminal Justice System." In short, the idea of a criminal justice *system* had been in operation for decades, perhaps 100 years or more. However, it took a presidential Commission—and a team of highly respected social scientists—to define exactly what it looked like and how it operated. Even in the aftermath of this Commission's work, however, the resulting model created another debate. Was the form of criminal justice that resulted from the operation of these various parts truly a system or a process?

Criminal Justice: System or Process?

A **system** is a set of connected parts that, taken together, create a complex whole. As previously observed, the administration of justice requires the creation of criminal laws, generally by legislative bodies of elected officials, and their enforcement by a series of key actors and agencies located within law enforcement, the courts, and correctional agencies. Collectively, these parts create a system dedicated to sanctioning or punishing those found to have broken the laws. However, as we have already seen, there is not one system of justice, but rather several levels of systems operating in the United States. Each has a relatively unique and well-established jurisdiction, although there may be some dispute about this characterization, a dispute to which we return in later chapters. Clearly, the overall administration of criminal justice in the United States, with its separate and equally important components and various legal jurisdictions, qualifies as an overarching system.

System:
a set of connected parts or elements that, taken together, create a complex whole

By contrast, a **process** is a series of steps or actions taken in the furtherance of some clearly identified goal or outcome. In the current situation, you could assume that the goal or outcome sought by the law is justice, but you would then have to refer to the varying definitions of justice, which can cause some confusion. Let us assume for the moment that in this context we define justice as fairness in the application of law to situations wherein a person is accused of a crime. The process, then, includes a review of the level of fairness reflected in the laws themselves and the lawful actions of the subparts of the criminal justice system at their respective jurisdictional levels. Confounding even this relatively straightforward definition is another set of questions: What is the role of the victim and the larger society in this process? What is justice for them?

Process:
a series of steps or actions taken in the furtherance of some clearly identified goal or outcome

The good news is that someone has dealt with this puzzle and provided an answer. In 1968, Herbert Packer authored a work titled

The Limits of the Criminal Sanction, which changed how people characterized the criminal justice process. The thrust of this work is that there are two ways to view criminal justice and the sanctioning process associated with it. On the one hand, the **due process model (DPM)** endorses certain principles found in the first ten amendments to the U.S. Constitution. As expressed by the due process clause of the Fourteenth Amendment and as interpreted in many decisions of the U.S. Supreme Court, due process means that which is "fundamentally fair." The criminal justice process, according to this view, should consist of a series of hurdles or barriers that the state, in its efforts to prove guilt, must overcome. **"Obstacle course" justice** protects the rights of the accused, who is presumed innocent until proven guilty. To punish the accused and remain true to the notions endorsed in due process, the state bears the burden to demonstrate legal guilt. This finding must be based on evidence presented at court in a procedurally correct fashion in accordance with the full range of legal protections afforded the accused. In this context, **legal guilt** becomes what the prosecutor can "prove" in court. Eventually, the search for justice becomes a formal fact-finding activity predicated on slow and deliberate actions, all directed by Blackstone's edict: "It is better to let ten guilty persons escape, than one innocent suffer" ((1771) 1979: 4:358). The goal of the DPM is, after all, fairness.

On the other hand, Packer suggested that in the United States there exists another perspective on justice: the **crime control model (CCM)**. According to this model, criminal justice protects the peace and security of the community. At trial, this model's central premise is that there remains little doubt that the accused is guilty, which constitutes a presumption of guilt rather than a presumption of innocence as found in the DPM. The overall criminal justice system should be concerned with the volume of cases processed and should adopt a perspective on achieving justice that is efficient in operation, a regimen often referred to as **"assembly line" justice**. The facts in the case, no matter how they came into the prosecution's possession, should be sufficient to determine guilt, as true justice is based on **factual guilt** (versus the DPM's legal guilt). In this context, then, the overriding goal of the CCM is crime suppression.

The 1967 Presidential Commission's *Report*, with its linkages between the central components of criminal justice, reinforces the systemic view, just as Packer's distinctions between the due process and crime control models of justice (see Table 1.1) support the notion of justice as a process. Hence, criminal justice is both a system and a process, and we treat it as such throughout this text.

Due process model (DPM): a way of viewing the administration of justice in which the goal is fairness; includes the ideas of presumed innocence, legal guilt, and "obstacle course" justice

"Obstacle course" justice: the method by which the due process model ensures the protection of the rights of the accused, creating hurdles or barriers for the state to overcome as it demonstrates legal guilt

Legal guilt: the due process model idea that only factual evidence obtained and presented in a procedurally correct fashion may be used in a court of law to substantiate a criminal charge

Crime control model (CCM): a way of viewing the administration of justice in which the goal is crime suppression; includes the ideas of presumed guilt, factual guilt, and "assembly line" justice

"Assembly line" justice: the method by which the crime control model enables crime suppression, ensuring the swift and expeditious movement of a defendant through the justice system to punishment predicated on factual guilt

Factual guilt: the CCM idea that all evidence, no matter how obtained, may be used to establish a defendant's guilt in or out of a court of law

Table 1.1 Comparing and Contrasting the Crime Control and Due Process Models of Justice

SOCIOLEGAL ELEMENTS	CRIME CONTROL MODEL	DUE PROCESS MODEL
View on justice processing	Protects the peace and security of the community	Threatens the liberty of the individual
Principal legal assumption	Presumes the guilt of the accused	Presumes the innocence of the accused
Goal of justice	Crime suppression	Fairness
Endorsed type of justice processing	Quantity justice (i.e., high-volume processing)	Quality justice (i.e., careful, thoughtful decisions)
Method of achieving justice	Efficiency of operation (i.e., "assembly line" justice)	Thoroughness of decision making (i.e., "obstacle course" justice)
Requirement for criminal sanction	Factual guilt	Legal guilt

SOURCE: Packer 1968.

AND JUSTICE FOR ALL

Justice has been a central part of the nation's fabric since its founding. Perhaps nowhere is that summarized better than in the national pledge, which stated in 1923, "I pledge allegiance to the flag of the United States of America, and to the Republic for which it stands, one Nation indivisible, with liberty and justice for all." In 1954, Congress added the phrase "under God" between "Nation" and "indivisible." Whatever changes occurred over the years, the phrase "justice for all" captures one of its enduring elements—one included in the pledge of allegiance since first proposed in 1892. In fact, the best place to seek a more complete understanding of this phrase and its significance for criminal justice in the United States is in the U.S. Constitution.

Constitutional Guidance

The U.S. Constitution is the basis of much of what we consider criminal justice in the United States today. For example, Article III of

the Constitution provides the broad outlines of the court system at the national level. Furthermore, elements of the **Bill of Rights** (the first ten amendments to the Constitution) have proven essential to administering justice in this country. Consider the various ways that just four amendments affect the administration of justice, as summarized in Box 1.3.

Bill of Rights: collective name for the first ten amendments to the U.S. Constitution, passed largely in response to Anti-Federalists who were concerned about the expanding power of a strong central government

Branches of Government

The federal government, along with state and local governments, is tripartite, which means there is a distribution of power among three branches: legislative, executive, and judicial. In most cases, we say that the legislative branch enacts the laws and provides funding for the various justice agencies. The executive branch must enforce the laws; police and correctional agencies are located in this branch of government. Finally, the judicial branch is responsible for interpreting the laws. Laws often contain broad and potentially vague terms, and this practice requires the courts to interpret what the statutes really mean. Ultimately, the courts must decide if the actions of the legislative and executive branches are consistent with constitutional requirements. We call this process **judicial review**.

Judicial review: the idea that the courts must decide if actions of the legislative and executive branches are consistent with constitutional requirements

Levels of Government

In addition to the three branches of government, governmental agencies also exist at the federal, state, and local levels in the United States. Each of the three branches of government exists at the national or federal level. For example, we have the U.S. Congress (legislative); the president of the United States, the president's cabinet, and other supporting agencies (executive); and the U.S. Supreme Court and lesser federal courts (judicial). In addition, states and local governments have similar structures. In simplest terms, this means that the entity that we call criminal justice is not one system but many independent and interrelated systems that exist in a vast matrix of justice agencies.

Jurisdictions and Justice

A new question emerges when we have the vast array of justice agencies that we have described: How do we know who is responsible for what? The simple answer rests with the word we introduced earlier in this chapter: jurisdiction. Within criminal justice, the various legal jurisdictions inform us about which agency at which level of government has the responsibility for processing a case. Sheppard says that jurisdiction is "[t]he power of a government,

Box 1.3 The Bill of Rights and Criminal Justice Administration

Four amendments to the U.S. Constitution play particularly important roles in guiding the criminal justice system in accordance with the framers' wishes. First, the **Fourth Amendment** has two provisions that will be important during our journey into criminal justice. First, this amendment says that "[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizure, shall not be violated." This means that when the police carry out a search and seizure, this action must be "reasonable" within the meaning established by law and legal custom.

Fourth Amendment: the legal protections governing search warrants and arrest warrants; they must be based on the notion of probable cause for a warrant to be issued and the search or arrest to be reasonable

Second, the amendment contains a so-called warrant clause. This clause says, "No Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Therefore, search warrants and arrest warrants must be based on probable cause (not merely the suspicion of one or more criminal justice actors) for a warrant to be issued and the search or arrest to be reasonable. We consider many of the elements associated with this amendment in some of the following chapters.

The **Fifth Amendment** to the Constitution is also central to criminal justice. This amendment requires a grand jury indictment for serious crimes, although this provision still only technically applies to federal cases. The Fifth Amendment also protects against double jeopardy (being tried twice for the same crime) and against criminal defendants being compelled to testify against themselves (self-incrimination). Finally, this amendment guarantees that no person shall be "deprived of life, liberty, or property, without due process of law." While the notion of "due process" troubles many students of criminal justice, in simplest terms it means that the government must ensure that all legal proceedings involving a suspect or an accused person adhere to the appropriate rules and policies.

Fifth Amendment: constitutional amendment that requires a grand jury indictment for serious crimes (although this provision still only technically applies to federal cases); protects against double jeopardy and against criminal defendants being compelled to testify against themselves; and guarantees that no person shall be deprived of life, liberty, or property without due process of law

In some ways, the **Sixth Amendment** is the "trial amendment." It contains a variety of provisions related to the administration of justice, including the rights to a jury trial, speedy trial, and public trial; the right to know the charges; the right to confront accusatory witnesses; and the right to assistance of counsel. These provisions originally applied only to federal cases in the context of criminal trials, but some (like the assistance of counsel) have worked their way into other "critical stages" of the criminal justice process, including interrogations and lineups.

Sixth Amendment: a variety of provisions related to the administration of justice, including the rights to a jury trial, speedy trial, and public trial; the right to be informed of the charges; the right to confront accusatory witnesses; and the right to be assisted by counsel

Finally, the **Eighth Amendment** contains two provisions often raised in the course of criminal prosecutions. It prohibits the levying of excessive bail (whatever the word "excessive" means) and the imposition of cruel and unusual punishment. Death penalty cases often mention the cruel and unusual punishment clause, especially in recent years with new (and untested) protocols finding their way into the lethal injection method of execution.

Eighth Amendment: constitutional amendment that prohibits the levying of excessive bail and the imposition of cruel and unusual punishment

court, or official over a given matter, person, or place. . . . It is also the power conferred by the relevant constitution and statutes upon a court or an officer lawfully to assert authority over a person or a subject matter or a place" (2012: 1449). Therefore, in any criminal case, we must always ask who has jurisdiction over this matter.

Juvenile Justice

The question of jurisdiction has more than a geopolitical context to it. Age may also be crucial. Therefore, it is important to note at the beginning of our discussion of criminal justice that in the United States we have a parallel **juvenile justice system** operating alongside what we have called the criminal justice system, the former being responsible for processing youngsters, generally defined as persons under a statutorily defined age, who have violated the law. This has not always been the case. In fact, early in our nation's history (and in many other nations as well), children and adults were treated much the same by the criminal law. As we will see later, all of that changed in 1899 when the state of Illinois created the first juvenile court, a model subsequently followed by governments at all levels.

Juvenile justice system: a part of the overall justice system that is responsible for processing those youngsters, generally viewed as legal minors, who have violated the law

THE CRIMINAL JUSTICE SYSTEM

Largely owing to the 1967 Presidential Commission *Report*, we have described the criminal justice system in the United States as composed of three types of agencies: police, courts, and corrections. As previously mentioned, however, the legislative branch of government also plays a critical role in the administration of justice.

Laws and Legislatures

The legislative branch, especially at the national and state levels, performs two very important functions in relation to criminal justice. First, legislatures define what constitutes a crime and what is necessary to prove in a court of law that a suspect has committed that act. They also establish the sanction or penalty accorded to persons found guilty of specific crimes. These ideas are reflected in a two-part legal dictum, also called the legality principle and a key part of the Rule of Law: no crime without law, and no punishment without law. Second, legislatures provide the funding necessary to staff and operate criminal justice agencies. Funding is essential for us to have the police departments, courts, and correctional agencies necessary to have any semblance of justice in this country. Laws and

the crimes they define are the focal concern of Part I's remaining two chapters.

Agents of Law Enforcement: Policing in the United States

Describing the law enforcement apparatus in the United States is a daunting task. At the federal level, there are dozens of different law enforcement agencies, each with its own unique set of tasks. At the state level, there are 49 state police agencies (known by a variety of different names), along with specialized law enforcement departments and bureaus that are assigned duties relating to game and fish enforcement, law enforcement in state parks (rangers), legalized gaming enforcement, and even some exotic duties such as cattle-brand enforcement. Only Hawaii does not have a state-level policing agency but does have county-level law enforcement. In terms of personnel and expenditures, the bulk of law enforcement in the United States occurs at the local level. Even here we have an array of agencies, such as police departments for cities, towns, and townships, along with more than 3,000 county sheriff's departments. According to the most recent federal estimates, the nation's state and local law enforcement agencies employ slightly more than 700,000 full-time sworn personnel with arrest and firearm authority (Hyland and Davis 2019). There are approximately another 132,000 full-time sworn federal law enforcement officers throughout the United States and its territories (Brooks 2019). Part II of this text details how the various parts of the nation's law enforcement community respond to both crime and criminals.

Judicial Responses to Crime and Criminals

Again, as we have previously mentioned, courts exist at all three levels of government. In the federal system, we have the U.S. Supreme Court. In addition, there are 12 regional U.S. Courts of Appeals and a Court of Appeals for the Federal Circuit. The basic federal trial court is the federal district court, and there are 94 federal court districts covering the United States and its territories (Administrative Office of the U.S. Courts, n.d.).

At the state level, each state has a court of last resort—often, though not always, called the state supreme court. Forty states also have intermediate appellate courts, frequently called the intermediate courts of appeals. At the trial court level, there are various configurations, with states often having multiple general trial jurisdiction courts as well as courts of limited or inferior jurisdiction (see, especially, Malega and Cohen 2013). We return to a consideration

of these courts in Chapter 7. In some ways, each of the courts at all levels of government has its own unique jurisdiction, but in some cases, there is overlapping or concurrent jurisdictions between courts at different levels of government and even between courts at the same level. As we shall see in Part III's chapters on courts, trials and issues in the judiciary, a rudimentary understanding of the impact of the U.S. Constitution, laws, and regulations on justice processing provides key insights into judicial processing.

Punishing the Offender: Contemporary Corrections

After the courts process the criminal cases and convictions result, correctional agencies take control of convicted offenders. Once again, these agencies exist at the federal, state, and local levels, and they process offenders in several different settings. In broadest terms, we can divide corrections into institutional and community-based domains. Institutional corrections include secure places of confinement, such as federal and state prisons. They also consist of various local detention facilities, such as jails, workhouses or penal farms, and juvenile detention centers. By contrast, community-based corrections involve probation, parole, halfway houses, residential treatment centers, day reporting centers, and a number of similar treatment programs. These distinctions become clear later in this text. Suffice it to say at this point that corrections is big business—today, an estimated 6,410,000 adult offenders are under some form of correctional supervision. However, contrary to many popular representations, the nation's correctional population shrank 12 percent between 2008 and 2018 (Maruschak and Minton 2020: 1). Most supervised offenders, roughly two-thirds, are on some form of community supervision with probation, a type of conditional release from a legal authority such as a court, being the most common. We examine this element of the criminal justice system in Part IV's four chapters.

SUMMARY

Simply defining the subject matter of this textbook is no easy task. Criminal justice refers to the entire sociolegal process whereby fairness is sought in matters involving laws that define what is a crime, as well as what happens to those found to be engaged in such activities. Our views of this system owe much to legislative and policy developments that took place in the 1960s but that continue to evolve well into the 21st century.

The quest to provide justice in the United States looks to the U.S. Constitution for guidance. All branches and levels of government must actively engage in this pursuit for fairness and justice to acquire more than symbolic meaning. Jurisdictions also emerge in this chapter as a critical topic, as in answering the question: Who has jurisdiction in this matter? Finally, while juveniles, particularly those defined as legal minors (i.e., those under a specific age), have their own justice system, no review of the U.S. system of criminal justice is complete without considering what the overarching system does to and for children.

In conclusion, this chapter provides a review of the subject matter—the systemic approach to criminal justice—that is the heart of the rest of this textbook. From laws and legislatures to contemporary corrections, each plays central and decisive roles in how the U.S. criminal justice system operates.

REVIEW QUESTIONS

1. Define each of the following and explain their significance for the term "criminal justice": justice, legal justice, and criminal.
2. Complete the following sentence, and explain how you arrived at your conclusion: "The mass media, but particularly television programming in the form of law-enforcement-related shows, has influenced how I see the administration of justice in the following ways: . . ."
3. Compare and contrast the crime control and due process models of justice.
4. What is the most important part of the evolution of the term "criminal justice" as popularly used in the United States today? Explain your answer.
5. Why are the findings of the 1960s President's Commission on Law Enforcement and Administration of Justice important to us today?
6. What does "justice" mean to you? Is it attainable in the area of criminal justice? Why or why not?
7. Is the phrase "and justice for all" as relevant today as it was in 1893, when it was first proposed? Explain your answer.
8. Do you have a favorite part of the criminal justice system? What is it and why? (Note: Keep a copy of this answer and review it at the end of the class.)

CRITICAL THINKING QUESTIONS

1. How would you answer a friend who says that criminal justice means justice only for criminals? What does this statement imply? Is your friend right or wrong?
2. In your opinion, is criminal justice a process or a system? Explain the basis of your answer.
3. "The United States needs a national police force with general law enforcement powers, duties, and responsibilities, rather than 18,000 largely uncoordinated policing agencies." Attack or defend this statement, explaining how you arrived at your conclusions.
4. The text reviews, in Box 1.1, four idealized forms of justice. Which one best expresses your own position on the question of justice? Explain why you support this perspective over the others.

KEY TERMS

"assembly line" justice
Bill of Rights
contributive justice
Challenge of Crime in a Free Society, The (1967)
crime control model (CCM)
criminal justice
criminal justice system
criminology
"*CSI* effect"
distributive justice
due process model (DPM)
Eighth Amendment
factual guilt
Fifth Amendment
Fourth Amendment
judicial review
jurisdiction
juvenile justice system
Law Enforcement Assistance Administration (LEAA)
Law Enforcement Education Program (LEEP)
legal guilt
legal justice
"obstacle course" justice
Omnibus Crime Control and Safe Streets Act (1968)
process
restorative justice
retributive justice
Sixth Amendment

CHAPTER 2

Defining and Reporting Crime

LEARNING OBJECTIVES

At the conclusion of this chapter, you should be able to:

- Distinguish between the different types of sociological and legal definitions used to describe crime.
- Describe the origin and evolution of the *Uniform Crime Report* (UCR) and its significance for measuring crime in the nation.
- Distinguish between different types or classes of crimes, including how the UCR counts and classifies them.
- Understand the future of official crime statistics in the United States, including the application of the National Incident-Based Reporting System.
- Define victimization surveys and distinguish them from crime reports.
- Distinguish between different types of crimes, including how the National Crime Victimization Survey (NCVS) counts and classifies them.
- Understand the future of victimization surveys in the United States, including changes to the NCVS.

INTRODUCTION

The year is 1965. A man rapes a woman who is a member of his household. Two police officers respond to the call made by a next-door neighbor who heard a woman screaming and begging for help. Arriving at the scene and evaluating the situation, the officers can do nothing. The reason: This was a sexual act between a husband and a wife, covered by law under the marital rape exception. Only beginning in the late 1970s could a husband be charged with and convicted of raping his wife and then only in a limited number of states (Finkelhor and Yllo 1985). Not until 1993 would all 50 states and the District of Columbia uniformly criminalize nonconsensual sex in marriage, or spousal rape (Mahoney and Williams 1998). The laws eventually changed in response to social movements during the 1960s and early 1970s, such as the growth of feminism and women's liberation, changing social values and norms, and greater knowledge about the nature and extent of marital rape generated by criminal justice scholars. Judges also began to question the marital rape exception. As New York Court of Appeals judge Sol Wachtler famously observed as late as 1984, "[A] marriage license should not be viewed as a license for a husband to forcibly rape his wife with impunity. A married woman has the same right to control her own body as does an unmarried woman" (*People v. Liberta* 1984). This is an example of how definitions of what is legal and illegal behavior can and do change over time.

As this example also suggests, the processes of defining, categorizing, and measuring crime owe much to both the scholarly and practical worlds of criminal justice. These two groups do not always communicate well with each other, but each must use the work of the other. Legislators make laws, sometimes informed by academics and practitioners and sometimes in direct contradiction to the best advice of both (Walker 2015). The police formally and informally, consciously and unconsciously, utilize academic criminal justice insights into crime and criminals in their work to reduce crime and catch criminals. U.S. Supreme Court and other appellate court decisions sometimes reference the work of psychologists, sociologists, criminologists, and criminal justice scholars, if only in the footnotes. The work of those defining and measuring crime also influences judicial sentencing practices. Correctional systems have long understood the value of the insights provided by criminal justice scholarship, even when politicians seem to ignore those insights. For their part, criminal justice scholars, academics, and researchers work to understand and explain the crime-related statistics generated by the nation's systems of law enforcement, courts, and corrections.