“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights.”

—Declaration of Independence

<table>
<thead>
<tr>
<th>Topic</th>
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<tbody>
<tr>
<td>1. Describe the public-order (crime-control) and individual-rights (due process) perspectives of criminal justice and explain how the criminal justice system balances the two.</td>
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<td>2. Describe the structure of the criminal justice system.</td>
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<td>3. Outline the fundamentals of the criminal justice process.</td>
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<td>4. Summarize major events that led to changes in the American criminal justice system.</td>
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<tr>
<td>5. Summarize a defendant’s due process rights.</td>
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</table>
In 2012, the Department of Health and Human Services announced a federal mandate to require all health insurance plans to offer access to free birth control. Religious groups declared that the mandate violated the First Amendment of the U.S. Constitution. The U.S. Conference of Catholic Bishops declared that the mandate would require Catholic institutions to offer services that were contrary to their core religious beliefs.  

Cardinal Francis George declared that the issue was not whether birth control should be included in health insurance plans, but whether the government could tell a religious institution to offer a service contrary to the tradition of conscience protection traditionally protected by the First Amendment.  

Cardinal George declared that if Catholic institutions are not exempt from the mandate, the Catholic Church will be forced to close hospitals, universities, and charities that provide essential services often to the most needy in society.

The Obama administration offered a compromise wherein the insurance companies rather than the Catholic Church as an institution would have to provide the free birth control services. Furthermore, it was noted that many Catholic institutions already offer insurance that includes birth control services. Supporters of the access to birth control mandate argue that most people favor women’s access to birth control and many consider it a “woman’s right” issue. Cardinal George said that he could not see a compromise that would preserve the First Amendment freedoms of the Church.

The First Amendment guarantees freedom of religion as one of the unalienable rights. How is this right interpreted and implemented in a complex, diverse society?

What does American society do when there appears to be a conflict between two or more “unalienable” rights? The criminal justice system plays an important role in resolving the issues that involve protections alleged to be provided by the U.S. Constitution. As the access to birth control health insurance mandates illustrates, there is no single viewpoint as to what constitutes an unalienable right. In some cases, there is outright conflict as the right claimed by one group is seen as a violation of the right of another group. Balancing the exercise of civil liberties against the need for law and order is a difficult and complex mission.

While the Declaration of Independence declares that people have unalienable rights and the U.S. Constitution describes those rights, from time to time, some of them may be in conflict with popular opinion, the law, or social values.

Society uses several means to balance conflicting rights and social values. In general, these means can be divided into informal and formal sanctions. Informal sanctions include social norms that are enforced through the social forces of the family, school, government, and religion. These social institutions teach people what is expected for normative behavior. In addition to teaching normative behavior, these primary social institutions also provide punishment when people violate social norms. In the informal system, parents punish children...
U.S. society is not characterized by a homogeneous and stable group of people with a common belief system. For disobedience, bosses reprimand employees, teachers discipline students, and religious groups call on offenders to repent of their sins.

The balancing of rights and public safety can also be achieved through use of formal sanctions (such as laws) found within the criminal justice system. Frequently, the norms and values embedded in informal systems are reflected in the formal systems of order maintenance. The more homogeneous and stable the people and their belief systems, the fewer the violations of social norms. In a homogeneous, stable society with a common belief system, there is less need for reliance on a formal system of social control to maintain order and regulate interactions. Social control systems operate most effectively and efficiently where there is constant and unified, overt and covert, interactions. Social control systems operate most effectively and efficiently where there is constant and unified, overt and covert, interactions. Social control systems operate most effectively and efficiently where there is constant and unified, overt and covert, interactions.

However, contemporary U.S. society is not characterized by a homogeneous and stable group of people with a common belief system. Rather, the United States is characterized by great diversity in race, religion, ethnicity, and values.

Limited Powers of Government

In Two Treatises of Government (1690), philosopher John Locke argued that all human beings are endowed with what he called “natural rights.” These rights are given to people by a power higher than government, and people cannot be deprived of them. Governments exist, according to Locke, to serve individuals. People surrender certain rights with the understanding that they will receive as much, or more, in other benefits, such as safety, order, and preservation of property rights. Locke conceded that the government must have the power of physical force to protect people and their property from the physical violations of others. However, this power was to be balanced against the need to preserve individual liberty. John Locke’s philosophies had a great influence on Thomas Jefferson when he drafted the Declaration of Independence.

When there is conflict between rights, often the U.S. Court system decides which rights are to be sanctioned. For example, the U.S. Supreme Court has recognized the right of people who have conscientious objections to killing to be exempted from combat service (the exemption does not exempt them from military service when required by law), the right to refuse childhood immunizations required by law, the right to withdraw children from public school before the age allowed by law, the right of Amish to be exempt from paying Social Security taxes, the right of Jews to be exempt from military rules that forbid nonuniform head coverings, and the right of Native Americans to use certain drugs in religious ceremonies and gather eagle feathers (which is prohibited by law for nonnative Americans). In the conflict between the Obama administration’s mandate requiring access to birth control services and religious institutions’ claim that the mandate violates the rights guaranteed by the First Amendment, the U.S. Supreme Court will be the final arbitrator as to which right is unalienable. Thus, the criminal justice system has assumed an important central role in public safety and order maintenance.

---

**Glossary**

**informal sanctions** Social norms that are enforced through the social forces of the family, school, government, and religion.

**social norms** The expected normative behavior in a society.

**formal sanctions** Social norms enforced through the laws of the criminal justice system.

**system of social control** A social system designed to maintain order and regulate interactions.

**order maintenance** Activities of law enforcement that resolve conflicts and assist in the regulation of day-to-day interactions of citizens.

**due process rights** Rights guaranteed to persons by the Constitution and its amendments.

**crime-control (public-order) model** A model of the criminal justice system in which emphasis is placed on fighting crime and protecting potential victims.

**due process model** A model that ensures that individuals are protected from arbitrary and excessive abuse of power by the government.

---

### 1896

The U.S. Supreme Court case of *Plessy v. Ferguson* establishes the “separate but equal” doctrine of racial discrimination that permitted the legal separation of whites and blacks.

---

### 1920

The Nineteenth Amendment extends voting rights to women.

### 1941

Broadcast television begins in the United States.

### 1954

*Brown v. Board of Education* declares state laws establishing separate public schools for black and white students unconstitutional. The decision overturned the *Plessy v. Ferguson* decision of 1896 that established the doctrine of “separate but equal” racial segregation.

### 1955

*Rosa Parks* is arrested and convicted for refusing to give up her seat to a white passenger on a bus. Her arrest initiates the 381-day Montgomery bus boycott and many acts of civil disobedience.
Chapter 1

Introduction to Criminal Justice

There must be a balance between law and order and due process rights. Law without order is anarchy, but order without law is tyranny. In the United States, the emphasis on public order or crime control versus emphasis on due process rights resembles a pendulum that swings back and forth between the two values.

Concern for due process swung to its most liberal extent in the 1960s under Chief Justice Earl Warren and then back to the right again with the “law and order” platform on which Richard Nixon based his campaign for the presidency. Nixon’s term as President (1969–1974) was characterized by a period of social unrest, violent protests and demonstrations, and high crime rates. Crime was the number one fear of citizens, and many people were receptive to the promise of crime control, public order, and swift—preferably harsh—justice for the offender.

This emphasis on efficient and effective justice is known as the crime-control (public-order) model of criminal justice.

However, crime control cannot be achieved at the expense of constitutionally protected liberties. The emphasis on ensuring due process rights. Law without order is anarchy, but order without law is tyranny. In the United States, the emphasis on public order or crime control versus emphasis on due process rights resembles a pendulum that swings back and forth between the two values.

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However, crime control cannot be achieved at the expense of constitutionally protected liberties. The emphasis on ensuring due process rights. Law without order is anarchy, but order without law is tyranny.

### Crime Control versus Due Process

In the Declaration of Independence, Thomas Jefferson embedded Locke’s arguments that government is limited in its power. This philosophy was further asserted in the Constitution and its amendments. Thus, the government has the power to act as final arbitrator of which rights are to be sanctioned, but there are checks and balances on this power. The government is charged with maintaining harmony among conflicting interests and sanctioning those who violate the rights of others. However, the government is restricted in the powers and actions it may use in its pursuit of maintaining law and order in society.

The rights guaranteed to persons by the Constitution and its amendments are called due process rights. There is no universal agreement as to what powers the government may exercise in the pursuit of law and order. Some would give the government more power and citizens few rights to tip the scale toward greater public order. Others would give the government less power and citizens more rights to achieve an acceptable level of crime control but maintain strict limits on government power.

**Timeline of Key Events**

<table>
<thead>
<tr>
<th>1961</th>
<th>1963</th>
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<tbody>
<tr>
<td>Civil rights workers attempt to desegregate bus stations and waiting rooms in the South. A bus in which they are traveling is fire-bombed, and the demonstrators are beaten. NAACP leader Medgar Evers is murdered.</td>
<td>Martin Luther King, Jr. (1929–1968) delivers his “I Have a Dream” speech in the March on Washington.</td>
<td>The Civil Rights Act of 1964 bans discrimination on the bases of race and gender by facilities that are open to the public, such as hotels, restaurants, theaters, retail stores, and similar establishments. Also, it extends greater protection for the right to vote. The Civil Rights Act of 1964 does not extend the ban on racial discrimination to state and local government. Thus, state and local law enforcement agencies and correctional agencies are not prohibited from racial discrimination.</td>
<td>Martin Luther King, Jr. is the youngest person to receive the Nobel Peace Prize for his work to end racial segregation and racial discrimination through civil disobedience and other nonviolent means.</td>
</tr>
</tbody>
</table>

**Timeline of Key Events**

<table>
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<tr>
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<tbody>
<tr>
<td>Martin Luther King, Jr. is assassinated.</td>
<td>The Omnibus Crime Control and Safe Streets Act is passed. The act establishes the Law Enforcement Administration Assistance (LEAA), which provides funding, training, and professionalization of the criminal justice system. LEAA implements many of its standards through the power of the “purse strings.” Agencies lose LEAA funding if they do not adopt the standards advocated by LEAA. LEAA is abolished in 1982.</td>
<td>On the Kent State University (Ohio) campus, National Guard troops open fire on unarmed students protesting U.S. involvement in the Vietnam War. Four students are killed.</td>
</tr>
</tbody>
</table>
Balancing Public Safety and Unalienable Rights

that individuals are protected from arbitrary and excessive abuse of power by the government is known as the due process model of criminal justice. Due process means that in the quest for crime control and public order, the government is bound to follow certain rules and procedures. Even if a person is guilty, if the government does not follow the rules and procedures in obtaining a conviction, the courts can refuse to prosecute the alleged offender or void a conviction obtained in violation of these rights.

One of the primary roles of the state and federal courts is to provide authoritative guidance as to the proper balance between due process and crime control that should be exercised by criminal justice personnel and agencies. Often the guidelines of the Court are the result of cases of alleged violation of constitutional and due process rights by law enforcement, the courts, or correctional personnel. For example, one of the best-known guidelines issued by the U.S. Supreme Court came from Miranda v. Arizona (1966), in which the Court mandated the specific due process rights that law enforcement must follow in arrest and interrogation of accused persons. The due process model reflects belief in the saying that it is better that a guilty person should escape the punishment of justice than an innocent person be wrongfully punished.

Think About It . . .

In the summer of 2011, numerous protest movements sprang up under the banner “Occupy Wall Street.” The nationwide Occupy protesters demanded more from the wealthiest Americans, who the protesters called the “1%.” The Occupy protestors, calling themselves the “99%,” set up illegal encampments in cities across the nation. They blocked sidewalks, traffic, bridges, and public buildings as part of their protest movement. The police made thousands of arrests and used pepper spray to disperse protestors. The estimated costs to cities of police and cleanup after Occupy protests are more than $13 million. Should cost be a factor in allowing people to exercise their First Amendment rights? Why or why not?

1965

Malcolm X (1925–1965), also known as Malcolm Little and El Haji Malik El-Shabazz, is assassinated by members of the Nation of Islam, an activist group that advocates black supremacy and separation of blacks and whites in the United States. Until a year before his murder, Malcolm X was a leader in the Nation of Islam, when he renounced the Nation of Islam and advocated more peaceful coexistence of the races.

A Gallup Poll reports that Americans view crime as the most serious problem in the country.

President Lyndon Johnson declares War on Crime.

U.S. troops are committed to the Vietnam War. In 1975, North Vietnam captures Saigon and Vietnam is united.

1965–1973

The twenty-sixth Amendment lowers the voting age from 21 to 18.

The Equal Rights Amendment (ERA) is introduced. The Amendment would ban discrimination on the basis of gender. Despite a three-year extension, the Amendment fails to obtain ratification by a sufficient number of states to become law, and the proposal dies in 1982.

The Equal Employment Opportunity Act of 1972 extends the provisions of the Civil Rights Act of 1964. The act gives the Equal Employment Opportunity Commission the authority to file class-action lawsuits and extends the jurisdiction of the act to cover state and local governments. The effect is to require state and local law enforcement agencies and correctional agencies, which had previously been exempt from the prohibitions against discrimination based on race and gender, to abolish discriminatory hiring, employment, and promotional practices.

1971

1972

1972

Think About It . . .
The Structure of the Criminal Justice System

During the 1960s, the public lost faith in the criminal justice system. Rising crime rates, riots, demonstrations against the Vietnam War, and racial conflict resulted in many people believing that the criminal justice system was “broken” or was a “non-system.” Concerned over the public’s ebbing faith in the ability of government to maintain public safety, President Lyndon Johnson appointed a commission of experts from the criminal justice system, government, public, and academic community to examine the criminal justice system, describe the criminal justice process, and make recommendations to improve it. The commission was called the President’s Commission on Law Enforcement and Administration of Justice. One of the main charges of the Commission was to determine whether the process of administration of justice in the United States was a system and, if so, to define the criminal justice system. The Commission issued a report in 1967 entitled The Challenge of Crime in a Free Society. The Commission’s report concluded that there was indeed a criminal justice system and provided an outline of the agencies and processes that comprised it.

The Commission concluded that the criminal justice system was composed of (1) the agencies and people involved in the criminal justice system and (2) the processes and flow of the criminal justice system. Furthermore, the Commission concluded that the criminal justice system was a dynamic system, constantly adjusting and changing. This dynamic nature was due in large part to the interactions between agencies, the operation of checks and balances within the system, and changing environments such as new laws and U.S. Supreme Court decisions. Also, the Commission acknowledged the dual nature of the criminal justice system; that is, the criminal justice system is not a single system but is comprised of the criminal justice system of each of the 50 states and the federal criminal justice system.

Today, the criminal justice system is widely recognized as a significant component of federal, state, and local governments. The criminal justice system employs more than 2.5 million people and spends more than $228 billion per year. The per capita justice expenditures are about $755 per U.S. resident. In 2011, the expenditures by the criminal justice system were flat or slightly declining, but from 1982 to 2007, the expenditures for criminal justice increased 171%.

Agencies in the Criminal Justice System

Criminal justice agencies can be divided into (1) law enforcement; (2) prosecutors and the courts; (3) the probation and parole agencies; and (4) the jails, prisons, and other correctional agencies. These agencies exist in the local, state, and federal levels of government. Each level of government has its own criminal justice agencies and process. Thus, there is not a single criminal justice system, but an interconnected system of criminal justice agencies at the local, state, and federal level. Also, there is a separate but interconnected criminal justice system for adults and juveniles at both the state and federal level of government.

Dual Criminal Justice System

The U.S. criminal justice system is distinct from criminal justice systems of other nations in which there is a centralized system of oversight and command from top to bottom. The American system can be described as a dual system, which refers to the fact that the federal government and the states each have the power to create their own semiautonomous criminal justice system. While all criminal justice systems must preserve the rights guaranteed by the U.S. Constitution, there is great diversity between states and the federal government in the details of their criminal justice systems.

Thus, while 2.5 million people are employed by the criminal justice system, each of the thousands of criminal justice agencies hires its own employees. There is no central employment agency for the criminal justice system. Each agency sets standards of employment, defines job responsibilities and duties, and pays its employees independently of central control. As a result, there...
is great diversity in the educational achievement, skills, knowledge, and abilities of the people who work in the criminal justice system. One law enforcement agency may require officers to have only a high school diploma, whereas another law enforcement agency may require a bachelor’s degree. One state may have no requirements of legal training for its municipal judges, whereas another state may require that municipal judges meet strict standards for education and other qualifications.

Sometimes the interrelationship of local, state, and federal criminal justice agencies is described in a hierarchical relationship by comparing them to a three-layer cake—a broad layer consisting of local agencies on the bottom, a small layer of state agencies on top of that layer, and a smaller layer consisting of federal agencies on the top. However, the analogy of a three-layer cake suggests that each political entity is separate and that there is a hierarchy with local political entities at the bottom and federal government at the top. This analogy does not accurately describe the criminal justice system. Because of the semiautonomous nature of criminal justice agencies, although the agencies may interact often, the agencies are independent and there is no hierarchical authoritative relationship between them. For example, the Federal Bureau of Investigation does not have administrative powers over state law enforcement agencies and state law agencies do not have administrative powers over local law enforcement agencies. The court system does have a hierarchical relationship in that higher courts can overturn the decisions of lower courts, but separation and independence still exist between the various local, state, and federal courts.

A better analogy to describe the relationship between the local, state, and federal criminal justice agencies is the picket fence model. In this analogy, the three horizontal boards in the fence represent the local, state, and federal government and the vertical boards represent the various criminal justice agencies, such as law enforcement, courts, and corrections. Although separate autonomy of each agency is represented by the space between criminal justice agencies at each level of government, an interrelationship is represented by the vertical pickets.

One of the characteristics of the criminal justice system is that it reflects the mistrust of a strong centralized government by the early founders of the United States. As a result, the U.S. government was created with numerous checks and balances. Each person and agency in the criminal justice system has a certain amount of autonomy, but each also is controlled by interactions with other criminal justice agencies. The balance of authority exercised over other agencies and the authority of agencies to void actions of other criminal justice agencies is called the power of checks and balances.

The flowchart created by the President’s Commission identifies five stages in the criminal justice system: (1) entry into the system, (2) prosecution and pretrial services, (3) adjudication, (4) sentencing and sanctions, and (5) corrections. The agencies that compose these stages are semiautonomous, and as discussed earlier, no one agency has the oversight powers to supervise and regulate the processing of an accused person through the criminal justice system. This separation of power acts as checks and balances to ensure fairness and to minimize the arbitrary exercise of power or abuse of power by one of the agencies.

One of the ways this power of checks and balance works is that when an accused person is transferred from one stage of the criminal justice system to another, there is the opportunity for a review of the charges against the accused. Often at these transition points, the receiving agency has the authority to refuse to continue the processing of the accused in the criminal justice system. For example, the prosecutor may alter the charges the police filed against the accused or may dismiss all charges and free the accused. The prosecutor must obtain permission of the court before the defendant can be formally tried for the alleged criminal activity. After the trial and sentencing, the defendant can appeal both the verdict and sentence. Finally, due process rights ensure that when a defendant is transferred to a correctional facility, his or her rights regarding cruel and unusual punishment and due process rights to appeal revocation of probation or parole are protected.

The Structure of the Criminal Justice System
The Criminal Justice Process

As mentioned, there is no single criminal justice system. Thus, a discussion of the criminal justice process cannot accurately describe the criminal justice process used by each state and the federal government. However, the criminal justice system of each state and the federal government must provide that the constitutional rights of people who have come in contact with the criminal justice system are protected. Each person must be treated with fairness and equality, and due process rights cannot be abridged. Thus, despite the differences between the criminal justice systems of the various states and the federal government, there is a commonality as governments must ensure that accused people are treated in accordance with the rights proscribed by the Constitution and that their journey through the criminal justice system is without bias and conforms to the guidelines provided by the Constitution and the U.S. Supreme Court.

In 1967, the President's Commission on Law Enforcement and Administration of Justice undertook one of the first attempts to describe the process of the American criminal justice system. Prior to the Commission's study, there was little research as to the process of the criminal justice system. The Commission produced a flowchart of the criminal justice system. The flowchart was not reflective of every state's system, but it did provide a visual depiction of a generalized understanding of the process of the criminal justice system. Since the publication of the Commission's flowchart, the process described by the 1967 report has been updated by other studies and the Bureau of Justice Statistics. Thus, the flowchart (Figure 1–1) has become a standard for depicting the criminal justice process.

The flowchart of the President's Commission describes the criminal justice system as a classical input-output model. In this model, the process describes how people are processed into the criminal justice system and then move through the system until they exit from it. (See Figure 1–2 for a description of the five stages in the criminal justice process and Figure 1–3 for the roles and functions of criminal justice personnel.)

Entry into the System

Law enforcement agencies are the primary officials responsible for detecting crime violators and bringing these individuals into the criminal justice system. Often the process of detecting crimes is a partnership between law enforcement and the public. To a large degree, law enforcement must depend on the public to report crime, to cooperate as witnesses, and to work with law enforcement in crime-prevention programs.

The arrest of a suspected criminal may be spontaneous, as when a patrolling law enforcement officer chances upon a crime in progress, or may it be the results of months, perhaps years, of planning that involves many different law enforcement agencies. Often arrests for major crimes, especially ongoing criminal enterprises, are characterized by extensive effort, resources, and collaboration by multiple criminal justice agencies. Arrest means that law enforcement can restrict the freedom of people by taking them into custody.

When a person is arrested, that individual must be transported to a facility where he or she can be booked. Booking is the process whereby law enforcement formally accuses a person of committing a crime. The purpose of booking is not to establish guilt, but (1) to establish the identity of the person and (2) to charge the person with a specific violation of the criminal law.

Booking acts as the transition point to determine whether the accused will be further processed by the criminal justice system.

Prosecution and Pretrial Services

In the next stage of the sequence of events in the criminal justice system, the government must decide whether the evidence presented by the police is sufficient to pursue prosecution of the alleged offender and must ensure that the due process rights of the defendant are protected. The decision to move the accused from booking to prosecution often is decided by collaboration between law enforcement officials and officials of the prosecutor’s office. The government official responsible for charging and prosecuting the defendant is known by different names from state to state. Some common titles are prosecuting attorney, district attorney, and state’s attorney. The prosecutor’s office has complete autonomy to accept, modify, or dismiss the charges upon which the defendant was booked. If the prosecutor does not seek criminal charges against the defendant, law enforcement has no authority to bring charges against the defendant. If the prosecutor decides to bring the defendant to trial for the alleged offense(s), a number of preliminary steps must occur. The purpose of these steps is, in part, to guarantee the due process rights of the defendant.

First Appearance

If the defendant is to be prosecuted, he or she will appear before a magistrate judge. Magistrate judges are judicial officers with authority to evaluate charges filed by law enforcement against the accused and to determine whether the charges are...
The Criminal Justice Process

What is the sequence of events in the criminal justice system?

**Entry into the system**
- Reported and observed crime
- Investigation
- Arrest
- Charges filed
- Preliminary hearing
- Bail or detention hearing

**Prosecution and pretrial services**
- Refusal to indict
- Grand jury
- Charges dismissed
- Charges dropped or dismissed
- Deferral or deferred prosecution
- Waived to criminal court
- Diversion by law enforcement, prosecutor, or court
- Released without prosecution
- Released after prosecution
- Released with supervision
- Unsuccessful diversion
- Unsolved or not arrested
- Charges dropped or dismissed
- Charges dismissed
- Charges dropped or dismissed
- Released without prosecution
- Released after prosecution
- Released with supervision
- Unsuccessful diversion
- Unsolved or not arrested

**Adjudication**
- Charge dismissed
- Acquitted
- Guilty plea
- Convicted
- Sentence
- Sentenced
- Probation
- Parole
- Jail
- Revocation
- Appeal

**Sentencing and sanctions**
- Probation
- Pardon and clemency
- Capital punishment
- Intermediate sanctions
- Probation
- Parole
- Jail
- Revocation
- Appeal

**Corrections**
- Probation
- Pardon and clemency
- Capital punishment
- Intermediate sanctions
- Probation
- Parole
- Jail
- Revocation
- Appeal

**Flowchart of the Criminal Justice Process**

<table>
<thead>
<tr>
<th>Stage</th>
<th>Major Agencies and Events</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Entry into the system</strong></td>
<td>This stage includes the detection of crime, which can involve both the police and the public.</td>
</tr>
<tr>
<td><strong>Prosecution and pretrial services</strong></td>
<td>After the police book and charge the accused with a crime, the accused becomes the defendant. During this stage, formal charges are filed against the defendant through a process that protects the rights of the defendant and decisions are made regarding release on bail.</td>
</tr>
<tr>
<td><strong>Adjudication</strong></td>
<td>The guilt of the defendant is determined through trial, plea bargaining, or dismissal of charges.</td>
</tr>
<tr>
<td><strong>Sentencing and sanctions</strong></td>
<td>The judge sets a punishment guided by the limits established by law. The defendant and the prosecutor have the right to appeal the sentence.</td>
</tr>
<tr>
<td><strong>Corrections</strong></td>
<td>The defendant is now the convicted and is transferred to a correctional authority to carry out the sanction. The convicted no longer is granted the presumption of innocence, and many due process rights, such as those related to interrogation and search and seizure, are lost. When the convicted person completes his or her sentence, he or she exits the criminal justice system.</td>
</tr>
</tbody>
</table>

**FIGURE 1-2 Five Stages in the Criminal Justice Process Model**

*Source: Adapted from Bureau of Justice Statistics, [http://bjs.ojp.usdoj.gov/content/justsys.cfm](http://bjs.ojp.usdoj.gov/content/justsys.cfm) (accessed February 29, 2012).*

<table>
<thead>
<tr>
<th>Official</th>
<th>Role</th>
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<tbody>
<tr>
<td>Police</td>
<td>Enforce specific laws, Investigate specific crimes, Search people, vicinities, buildings, Arrest or detain people</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>File charges or petitions for adjudication, Seek indictments, Drop chases, Reduce charges</td>
</tr>
<tr>
<td>Judges or Magistrates</td>
<td>Set bail or conditions of release, Accept pleas, Determine delinquency, Dismiss charges, Impose sentence, Revoke probation</td>
</tr>
<tr>
<td>Corrections Officials</td>
<td>Assign convicted persons to type of correctional facility and oversee their imprisonment, Award privileges to imprisoned inmates</td>
</tr>
<tr>
<td>Paroling Authorities, Parole and Probation Officers</td>
<td>Determine date and conditions of parole, Revoke parole, Supervise inmates released from incarceration on parole or probation</td>
</tr>
</tbody>
</table>
At the first appearance, the accused is not asked whether he or she pleads guilty or not guilty to the charges.

Legitimate according to state statutes and federal laws. At the first appearance, the accused is advised of his or her legal rights, the magistrate must determine whether the accused has legal representation, and bail may be set. Bail is a promise, sometimes backed by a monetary guarantee, that the accused will return for further proceedings in the criminal justice system. The decision of bail can be revisited at several points in the criminal justice process. At the first appearance, the accused is not asked whether he or she pleads guilty or not guilty to the charges. The question of guilt is not raised at this time. The first appearance will be discussed in greater detail in Chapter 9, “Sentencing.”

**The Path to Indictment**

After the first appearance, the prosecutor must obtain an indictment if he or she is to prosecute the defendant. An indictment is a formal, written legal document forwarded to the court, asserting probable cause that the defendant committed an offense. The indictment authorizes the court to issue an arrest warrant for the defendant and to set an arraignment hearing at which the defendant must formally respond to the charges with a plea of guilty or not guilty.

There are two ways the prosecutor may obtain an indictment. One way is the preliminary hearing. A preliminary hearing is a court hearing before a magistrate judge in which the prosecution must convince the judge that there is probable cause that (1) an offense as defined by the criminal laws of the jurisdiction has been committed within that jurisdiction and (2) the defendant accused of the offense committed the crime. The preliminary hearing is sometimes called a probable cause hearing because of this responsibility. Each state and the federal government have different rules regarding preliminary hearings, so the hearing differs from court to court.

Another path to obtaining an indictment is by use of a grand jury. A grand jury is a legal procedure that in some ways resembles a trial. Grand jury rules differ by state; in some states, the defendant's legal counsel may be present, and in others, defense counsel is barred. Similar to the preliminary hearing, the prosecutor presents evidence to the members of the grand jury to convince them that the defendant probably committed the offense. The grand jury does not determine guilt, but if the prosecutor is successful, the grand jury returns a true bill; this authorizes the prosecutor to arraign the defendant. If the prosecutor is not successful, he or she cannot proceed to an arraignment.

The grand jury will be discussed in greater detail in Chapter 9, “Sentencing.”

**Adjudication**

At the arraignment hearing, the charges are read and the defendant is asked whether he or she pleads guilty or not guilty. If the defendant pleads not guilty, a trial date is set. If the defendant pleads guilty (or no contest), a sentencing date is set. When a guilty plea is entered, there is no trial and the government is not required to prove guilt beyond a reasonable doubt to a jury or a judge.

**Sentencing**

If the defendant is found guilty, the judge will decide on a sentence guided by the limits set by law. The judge will be assisted in determining the sentence using a presentence investigation report provided by a probation officer, who will perform an extensive life history and background investigation of the convicted defendant. (The actual title of this person varies by state.) The sentence is announced at a sentencing hearing wherein both the prosecutor and the defendant's counsel can challenge the sentence and the information presented by the presentence investigation report.

The sentencing procedure for capital offenses (death penalty) is different from that of noncapital cases and will be discussed in Chapter 10, “Corrections in the Community.”

After adjudication and sentencing, the defendant has the right to appeal both the criminal conviction and the sentence.

**Corrections**

Once the convicted defendant is sentenced, he or she is transferred to a correctional facility. For those defendants given alternative sanctions that do not require incarceration in a correctional facility, they are placed under the supervision of probation officials. (The same officers also may supervise inmates released early from correctional institutions or some form of intermediate sanction.)

**Exit, Recidivism, and Multiple Dimensionality of the Criminal Justice System**

There are a limited number of options as to how a person is processed into the criminal justice system, but there are numerous exit options. Some exit options occur shortly after the person enters the system; other options occur only at the end of the process model. Law enforcement officials may quickly discover that they have arrested the wrong person and release him or her before booking. Prosecuting officials may conclude that there is insufficient evidence to convict a person arrested by law enforcement and refuse to prosecute, resulting in the person exiting the system. The prosecutor may fail to win an indictment at a preliminary hearing, and the accused may exit the system.

Few people who enter the system by
arrest are processed through the entire criminal justice system. Since 1990, the percentage of defendants released pretrial has remained relatively stable at about 60%.12 (See Figure 1–4 for the latest figures on the disposition of cases.)

Furthermore, the criminal justice system is not a one-dimensional, one-way input-output model. About 43% of felony defendants who enter the criminal justice system have at least one prior felony conviction.13 Also, many who enter the criminal justice system may be charged with a crime in multiple jurisdictions. About 18% of defendants commit new offenses while they are being processed by the criminal justice system.14

The Changing Criminal Justice System

The criminal justice system reflects the complex interaction of social values, technology, law, concepts of social justice, and economic forces. Sometimes the changes in the criminal justice system are deliberate, as when the government undertakes to change or reform the system or landmark U.S. Supreme Court decisions cause transformative change. Other forces may have unintentional influences on the criminal justice system. The invention of the revolver, the telephone, the automobile, and the television all had major impacts on the criminal justice system, resulting in transformative change.

Four meta-influences have shaped the U.S. criminal justice system since the mid-twentieth century. A meta-influence is a phenomenon that results in encompassing transformative changes. Meta-influences have the ability to transcend the immediate environment and objectives in which the phenomenon is situated, resulting in significant changes throughout social behavior, values, and interactions.

![Diagram showing typical case disposition in 2006](image_url)

**Civil Rights Movement**

**Vietnam War**

**Rising crime rate and public's increased awareness of it**

**Attacks on the towers of the World Trade Center and the Pentagon by international terrorists on September 11, 2001**

Typical outcome of 100 felony defendants arraigned in state courts in the 75 largest counties, May 2006

- **68 convicted**
  - 56 felony
  - 11 misdemeanor
- **4 trials**
- **65 guilty pleas**
- **24 prison**
- **24 jail**
- **17 probation**
- **3 other**
- **23 dismissed**
- **1 acquittal**
- **69 prosecuted**
- **42 detained**
- **58 released**
- **100 felony defendants**

In a sense, the roots of parts of the U.S. criminal justice system are founded in racial discrimination.

The criminal justice system was at the center of this conflict as the segregation laws were enforced by law enforcement and the courts. This discrimination was reflected in so-called Jim Crow laws (Black Codes), which provided legal sanctions for customs and practices of discrimination. Also, employment in the criminal justice system was not open to minorities and females. Until the 1972 Equal Employment Opportunity Act, law enforcement and correctional agencies could refuse employment to minorities and females with legal impunity. In Slavery by Another Name, Douglas A. Blackmon (2008) argues that the correctional system preserved enslavement of African-Americans until the 1940s.

The civil rights movement was divided into two distinct approaches: those who advocated violence and separation of the races and those who advocated nonviolent civil disobedience and integration of the races. Malcolm X was characteristic of the former; Martin Luther King, Jr., was characteristic of the latter.

King’s strategy of nonviolent civil disobedience captured national attention in December 1955 with the 381-day Montgomery bus boycott of public transportation. This event was triggered by the arrest and conviction of Rosa Parks for violating the segregation laws because she would not give up her bus seat to a white passenger. However, King’s nonviolent civil rights approach often resulted in retaliatory acts of violence, even murder, mob actions, and extensive destruction of property.

The evolution of the criminal justice system to provide fair and impartial justice for all is an underlying theme of the criminal justice system. In the twenty-first century, significant progress has been made in achieving this goal, but great challenges still face the criminal justice system. For example, Michelle Alexander, author of The New Jim Crow: Mass Incarceration in the Age of Colorblindness, argues that the rising incarceration rates of the late twentieth century reflect a racially based system of control to serve the perceived interests of white elites.17

Protests and the Vietnam War

U.S. involvement in the Vietnam War produced great acrimony in society. The conflict between antiwar protesters and the government was characterized by violent demonstrations resulting in property damage, injuries, and deaths.

The Vietnam War lasted from 1955 to 1975 and involved Vietnam, Laos, and Cambodia. The U.S. government considered it a war against the spread of communism based on what was called the domino theory. The domino theory claimed that the fall of Vietnam to communist rule would be followed by the fall of another and then another country, until democracy itself would be threatened by communist insurgency. The estimated 1–3 million The number of Vietnamese soldiers and civilians killed in the Vietnam War.

The Changing Criminal Justice System 13
number of Vietnamese soldiers and civilians killed varies from 1 million to more than 3 million. About 58,000 U.S. service members also died in the conflict.

There was great debate as to the legitimacy of U.S. military involvement, but U.S. involvement in the war continued to escalate starting with President Kennedy and continuing under Presidents Johnson, Nixon, and Ford. In 1975, the communist government of North Vietnam militarily defended South Vietnam, officially ending the conflict.

During these approximately 15 years the United States was involved in the war, antiwar protestors staged numerous and sometimes violent demonstrations. Law enforcement officials were often in conflict with protestors, and these conflicts were lead stories for the evening news. The police were often captured on film engaged in physical conflict with the protestors. The conflicts often were such that local law enforcement was considered incapable of handling the crowd and military troops were used to respond to the demonstrations. However, military troops did not have the training in crowd control and civil demonstrators that law enforcement officers did. As a result, the presence of military troops often escalated the conflict. One example of the violent encounters between protestors and the military was the Kent State University antiwar protests in 1970. National Guard troops opened fire on unarmed student demonstrators, killing four students and injuring nine more.

The often violent encounters between law enforcement and antiwar protestors resulted in a public perception of law enforcement officials as being brutal and disrespectful of the Constitution. This rift between a large section of the public and law enforcement had a great influence on police–community relations. Also, it bred contempt for the criminal justice system because it was seen as an extension of the status quo government committed to the war effort. This perception contributed to the derogation of confidence by the public in the criminal justice system that was to become a central concern in the War on Crime.

The War on Crime

The 1960s and 1970s were periods of great social upheaval, antiwar protests, civil rights demonstrations, and rising crime rates. The combination of these events accentuated the public’s fear of the rising crime rate. During this period, violent crime rates hit record highs and the emergence of violent juvenile crime resulted in the public’s fear of criminal victimization. According to a 1965 Gallup Poll, Americans viewed crime as the most serious problem in the country. In 1968, 31% of Gallup survey respondents said that they were afraid to walk in their own neighborhoods at night, and by the end of 1972, the number had risen to 42%. Many citizens thought that rather than providing a solution to the rising lawlessness, the police contributed to the problem.

The criminal justice system was perceived as failing apart—failing. On July 25, 1965, President Lyndon Johnson responded by declaring a War on Crime. He created a series of federal presidential commissions to study crime and justice and to recommend suggested reforms to restore public confidence. The findings of the President’s Crime Commission concluded that fear of crime had eroded the basic quality of life for many Americans. It also recognized the importance of crime prevention (as opposed to crime fighting), the role of the public in public safety, and the necessity of eliminating injustices in the criminal justice system.

To further the implementation of the recommendations of the President’s Crime Commission, Congress passed legislation to provide substantial resources to the various agencies of the criminal justice system. The Omnibus Crime Control and

### Think About It . . .

More than 40 years have passed since a comprehensive review of the criminal justice system was undertaken. U.S. Senator Jim Webb (D-VA) believes it is time to examine the criminal justice system again. In 2011, Webb introduced a bill to create the National Criminal Justice Commission, “a blue ribbon commission to look at every aspect of our criminal justice system with an eye toward reshaping the criminal justice system from top to bottom.” The bill failed to pass. Is there a need for a comprehensive review of the criminal justice system to align it with the realities of the twenty-first century? Why or why not?
Safe Streets Act of 1968 provided resources to local and state government to assist in the adoption of reforms (for example, better training, better-qualified recruits, in-service education for police officers, funding of police–community relations programs, and other strategies to promote public safety and build up public confidence in the criminal justice system).

The Omnibus Crime Control and Safe Streets Act of 1968 created the Law Enforcement Assistance Administration (LEAA). The LEAA acted as a conduit for the transfer of federal funds to state and local law enforcement agencies. However, these funds were not without "strings."

The LEAA's goal was to promote adoption of the standards and reforms outlined by the National Commission on Criminal Justice Standards and Goals. To receive the generous funds available from the federal government through LEAA, local and state agencies had to show that they had implemented or were working to implement the commission's standards and goals. Many of the advances made in law enforcement agencies were a result of the compliance with standards and goals necessary to qualify for federal funds.

One of the goals of the National Commission on Criminal Justice Standards and Goals was to increase the professionalism and ethical behavior of criminal justice personnel, particularly law enforcement officers. One of the primary strategies used to achieve this goal was to raise the educational level of criminal justice personnel. The task of the Law Enforcement Educational Program (LEEP) was to achieve this goal. LEEP offered loans and grants to law enforcement personnel who would pursue higher education.

The LEEP left a tremendous legacy. It not only resulted in a significant increase in the educational levels of law enforcement officers, but also helped develop criminal justice as an academic discipline. The availability of federal grants spurred many law enforcement officers to enroll in college. In turn, the growing demand for college programs stimulated many colleges and universities to develop criminal justice programs. This in turn resulted in law enforcement departments requiring higher educational levels for entry-level law enforcement positions and for promotions.

### The Rise of Concern over Homeland Security

Prior to 2001, there was no Department of Homeland Security and the threat of an attack by international terrorists on U.S. soil was not a concern of the criminal justice system or the public. The biggest crisis in the twenty-first century was caused by a foreign attack on the United States. Responding to this attack by international terrorists on September 11, 2001, just as President Johnson had declared a war on crime, President George W. Bush declared a war on terrorism.

The impact of the war on terrorism has transformed the criminal justice system and continues to exert powerful forces for change. The 9/11 attacks resulted in creation of the Department of Homeland Security, new legislation expanding the powers of federal law enforcement agencies, and suspension of due process rights for accused terrorists labeled enemy combatants by the president. If labeled an enemy combatant upon the sole authority of the president, the accused loses all due process rights normally afforded to people accused of a crime. In fact, President Barrack Obama has extended the scope of the enemy combatant executive order issued by President Bush to include the power to execute accused enemy combatants, including U.S. citizens, without trial, due process, or disclosure of the standards that are used to justify the execution.

The war on terrorism poses one of the most serious challenges to the balance between public safety and due process. The influence of the war on terrorism on the criminal justice system continues and will be discussed in greater detail in Chapter 14, “Homeland Security”.

### Due Process Rights

The primary sources of due process rights are the state constitutions of the 50 states, the U.S. Constitution, and the Bill of Rights. However, it is the decisions of the U.S. Supreme Court that define which rights are enforced and how these rights are to be expressed in the criminal justice system. Most of these rights are contained in the first ten amendments and in the Thirteenth and Fourteenth Amendments of the U.S. Constitution.

In fact, the Fourteenth Amendment is sometimes called the due process amendment because its language prohibits state and local governments from depriving persons of life, liberty, or property without due process. The due process clause requires the government to recognize substantive and procedural rights of people and to apply the law equally to everyone. Substantive due process refers to the constitutionality of laws, and procedural due process refers to the process and procedure the government can use to seek a conviction for violation of a law.

### Due Process Rights and the U.S. Supreme Court

The due process rights granted to the accused have varied throughout history. The protection of the due process rights guaranteed by the U.S. Constitution does not extend to state and local criminal justice systems unless the U.S. Supreme Court incorporates the federal rights defined by the U.S. Constitution. State constitutions may grant the accused due process rights independently from the U.S. Constitution. However, if the state constitution does not grant a right and the right has not been incorporated, the accused can only claim this right in federal court. The due process rights in the U.S. Constitution have been incorporated right by right and amendment by amendment throughout history.

Often these rights are incorporated by U.S. Supreme Court landmark decisions. A landmark decision occurs when the U.S. Supreme Court declares a significantly different interpretation of the rights guaranteed by the U.S. Constitution. Landmark decisions define rights the federal and state courts must recognize even if the law or previous court decisions do not recognize the right. For example, the First Amendment right of free speech did not apply to the states until Gitlow v. New York (1925), when the U.S. Supreme Court ruled state laws unconstitutional if they arbitrarily infringed upon free speech. The First, Fourth, and Sixth Amendments have been fully incorporated, and states must guarantee these rights to accused persons.

The Second Amendment (the right of individuals to bear arms) is the most recent amendment to be incorporated. It was incorporated in District of Columbia v. Heller (2008) and McDonald v. City of Chicago, et al. (2010).
In part, the incorporation of due process rights depends on the philosophy and values as reflected by the U.S. Supreme Court justices in their decisions.

Some rights guaranteed in the U.S. Constitution are not incorporated. For example, parts of the Seventh Amendment have not been incorporated. In part, the Seventh Amendment states, “In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. . . .” While this amendment has not been repealed, federal and state defendants are not guaranteed a right of trial by jury for all lawsuits exceeding $20.

**Due Process and Liberal versus Conservative Courts**

The incorporation of due process rights depends in part on the philosophy and values reflected by the U.S. Supreme Court justices in their decisions. At the beginning of the twenty-first century, the U.S. Supreme Court has often been described as a “conservative court.” Unlike the U.S. Supreme Court under Chief Justice Earl Warren (1953–1969), which created many new due process rights for the accused, the U.S. Supreme Court under the leadership of Chief Justice John Roberts (2005–) has created few new due process rights and has modified or curtailed many put in place by previous Court decisions.

The decisions of the Roberts Court are described as “conservative,” with more emphasis on crime control than due process. As a result, the Roberts Court has often ruled to allow law enforcement greater latitude in arrest, interrogation, and search and seizure than the U.S. Supreme Court did under Chief Justice Earl Warren.

**Due Process Rights of the Accused**

Due process rights protect the accused against abuse of power by police, prosecutors, courts, and corrections at the expense of swift and sure justice for the victim. By insisting that the government operate within certain limitations in securing the conviction of the accused, citizens are protected against the misuse of the power of the government that could be brought to bear in prosecuting the individual.

The central premise of due process rights is the **presumption of innocence**. Regardless of overwhelming evidence against the accused, the court proceeds on the presumption that until the guilt of the accused is proven beyond a reasonable doubt in a court of law, the defendant is treated as if he or she is not guilty of the charges in regards to the rights afforded the individual. In other words, an accused person cannot be denied constitutional rights simply because he or she is accused of a crime or because of the apparent overwhelming belief in his or her guilt prior to trial.

The First Amendment guarantees the right of freedom of speech, religion, and the press and the right of the people to assemble and to petition the government for a redress of grievances. The major due process rights granted by various other amendments as interpreted by the U.S. Supreme Court guarantee protections against unreasonable searches (Fourth Amendment), forced and self-incriminating testimony (Fifth Amendment), excessive bail and fines (Eighth Amendment), and cruel or unusual punishment (Eighth Amendment), as well as the right to a speedy public trial by jury. The way the U.S. Supreme Court guarantees these rights is to define through case law whether a law or an action violated a Constitutional right. (See Figure 1–5 for a summary of the due process rights of the accused.)

**What Is Criminal Justice?**

The study of criminal behavior dates to the earliest origins of civilization, but it was not until the mid-nineteenth century that a word was coined to describe this endeavor. In 1855, Italian law professor...
The following U.S. Supreme Court decisions are landmark cases in criminal justice. The name of each landmark case is followed by a brief description of the right defined in the case.

<table>
<thead>
<tr>
<th>Case</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td><em>Weeks v. United States</em>, 1914</td>
<td>Established the exclusionary rule disallowing evidence obtained in violation of constitutional rights in federal courts.</td>
</tr>
<tr>
<td><em>Mapp v. Ohio</em>, 1963</td>
<td>Incorporated Fourth Amendment search rights granted under Weeks to defendants in federal court to defendants in state courts.</td>
</tr>
<tr>
<td><em>Gideon v. Wainwright</em>, 1963</td>
<td>Guaranteed defendants the right to an attorney to represent them at criminal trial.</td>
</tr>
<tr>
<td><em>Miranda v. Arizona</em>, 1966</td>
<td>Summarized a number of rights granted by previous decisions into a single standard establishing that a defendant has a right to counsel and a right against self-incrimination and that the defendant understands his or her rights.</td>
</tr>
<tr>
<td><em>Klopf er v. North Carolina</em>, 1967</td>
<td>Incorporated the Sixth Amendment right to a speedy trial for defendants in state courts.</td>
</tr>
<tr>
<td><em>Witherspoon v. Illinois</em>, 1968</td>
<td>Prohibited the exclusion of those opposed to capital punishment from capital crime juries.</td>
</tr>
<tr>
<td><em>Furman v. Georgia</em>, 1972</td>
<td>Prohibited the death penalty.</td>
</tr>
<tr>
<td><em>Scarpelli v. Gagnon</em>, 1973</td>
<td>Declared that a probationer’s sentence can be revoked only after preliminary and final revocation hearings.</td>
</tr>
<tr>
<td><em>Roper v. Simmons</em>, 2005</td>
<td>Abolished capital punishment for juveniles who were under the age of 18 at the time of their crime.</td>
</tr>
<tr>
<td><em>District of Columbia v. Heller</em>, 2008</td>
<td>Defined the Second Amendment as upholding an individual’s right to possess a firearm unconnected with service in a militia and to use that arm for traditionally lawful purposes.</td>
</tr>
<tr>
<td><em>McDonald v. City of Chicago</em>, et al., 2010</td>
<td>Incorporated the Second Amendment right to bear arms, thus prohibiting states from banning individual ownership of firearms.</td>
</tr>
</tbody>
</table>

**FIGURE 1-5 Due Process Landmark Cases**

Raffaele Garofalo coined the term *criminologia*, the study of crime. In 1887, French anthropologist Paul Topinard used *criminologia* to refer to any scientific concern with the phenomenon of crime.

The study of crime as an academic discipline emerged in the United States in the twentieth century and was rooted in the academic discipline of *sociology*, the study of human social behavior. American sociologist Edwin Sutherland provided a definition of criminology that is widely used. He described *criminology* as "the body of knowledge regarding crime as a social phenomenon. It includes within its scope the process of making laws, of breaking laws, and of reacting toward the breaking of laws."20

While criminology can include the study of the criminal justice system, criminal justice has evolved into a distinctively different discipline from criminology. Sutherland’s definition of criminology emphasized that “the objective of criminology is the development of a body of general and verified principles and of other types of knowledge regarding this process of law, crime, and treatment or prevention.”21 In other words, the purpose of criminology is to develop theories that explain crime as a social phenomenon.

The discipline of criminal justice emerged in the 1960s and matured in the 1980s. Many early academic programs related to criminal justice were housed in sociology departments. Criminal justice refers to the study of the processes involved in a system of justice; the people who perform these tasks; the scope and nature of the system; and the public policy, laws, and regulations that shape the administration and outcomes of a criminal justice system. An objective of the study of criminal justice may be to develop theories, but often criminal justice research is applied research, comparison research, descriptive research, or problem-solving research.

The study of law leading to the credentials to practice law as a licensed attorney is a distinctly different discipline from criminal justice or criminology. A career as an attorney, a prosecutor, or a judge requires completion of a graduate law degree. Lawyers tend to be professionals who work in the criminal justice system.

Today, the field of criminal justice includes many related fields in counseling, forensic science, law, medicine, psychology, science, and sociology. New fields of study such as aviation security, forensic science, homeland security, intermediate sanctions, psychological profiling, and reentry of offenders into society have created new opportunities for those who have an interest in criminal justice but do not want to enter traditional law enforcement or correctional professions. Also, as foreign language barriers become less of a challenge and travel restrictions to certain countries ease, many are finding the study of the criminal justice systems of other nations to be an exciting field. Many college-level criminal justice departments offer study-abroad programs to those who want to study another country’s criminal justice system.

The discipline of criminal justice emerged in the 1960s and matured in the 1980s.
This case raises several interesting questions. Among them are the following:

1. Read the First Amendment and the discussion of due process in this chapter. Does the public audio recording of police officers in the course of their duties violate the due process rights of the First Amendment? Explain.

2. If new legislation is introduced, what and when should citizens be allowed to record? Explain.

3. What privacy rights do police officers have in the public performance of their duties while in uniform?
Describe the public-order (crime-control) and individual-rights (due process) perspectives of criminal justice and explain how the criminal justice system balances the two.

The need to balance each individual’s due process rights with the need to protect the larger part of society poses a challenge for the criminal justice system. Balancing the exercise of civil liberties and the need for law and order is a difficult and complex task. Formal sanctions (laws) within the criminal justice system are necessary to balance individual rights and public safety. A homogeneous society has less need for reliance on a formal system of social control. However, the United States is not a homogeneous society; rather, it is a society characterized by great diversity in race, religion, ethnicity, and values.

1. Explain why public order (crime control) is necessary in our society.

2. What makes balancing public order and individual rights so complex?

3. How do the courts provide guidance in balancing crime control and due process?

Describe the structure of the criminal justice system.

The criminal justice system is comprised of various components. Those components include law enforcement, the courts, probation and parole, and correctional institutions. These components exist in federal, state, and local government. The distinct autonomy of each component at each level of government can be likened to a picket fence, with the local, state, and federal criminal justice systems depicted as three horizontal levels connected vertically by the roles, functions, and activities that each performs. The U.S. government has created many checks and balances to control the autonomy and to void actions of other criminal justice agencies.

1. What are the categories of agencies that comprise the criminal justice system?

2. What is meant by the term picket fence model?

3. How is the power of criminal justice agencies controlled?
Outline the fundamentals of the criminal justice process.

The police are responsible for investigating, arresting, and booking a defendant. If the defendant is to be prosecuted, the next step is the first appearance before a judge. A judge determines whether the charges are legitimate according to statutes, advises the person of his or her legal rights, and determines bail. A case moves from the police to the prosecutor by a preliminary hearing or a grand jury indictment. At the arraignment, the defendant is asked whether he or she pleads guilty or not guilty. Guilt or innocence is determined by the judge in a bench trial or by the jury in a jury trial. The judge determines an appropriate sentence for a convicted defendant. The sentence is announced at a sentencing hearing. The defendant has a right to appeal a verdict based on alleged judicial errors. The convicted defendant may become an inmate in a correctional facility or may be placed on probation. Under certain conditions, parole may allow for an early release from a correctional facility.

1. List the major processes a defendant faces in the criminal justice system.
2. Describe what takes place during an initial appearance.
3. How can a defendant challenge a conviction?

Summarize major events that led to changes in the American criminal justice system.

A number of phenomena encouraged change within the criminal justice system and led to its distinction as one of the most examined and criticized aspects of government operations. These historical events included the Civil Rights Act of 1964; the Vietnam War; President Johnson’s War on Crime; and President Bush’s war on terrorism following the attacks of September 11, 2001. In many respects, these four historical events were interrelated and cumulative in their effect on bringing change to the criminal justice system.

1. Name four events that stirred interest in examining the effectiveness of the criminal justice system.
2. Describe the struggle for equality within society and the criminal justice system.
3. How was the criminal justice system perceived as a failure?
4. What did the President’s Crime Commission legislate to offer funding to improve the criminal justice system?

- meta-influence A phenomenon that results in encompassing transformative changes.
- slave patrols White militia who were responsible for controlling, returning, and punishing runaway slaves.
- Brown v. Board of Education Topeka (1954) The U.S. Supreme Court decision that resulted in the movement to integrate schools, public transportation, business, and society.
- Civil Rights Act of 1964 The act declaring that it is illegal for businesses, hotels, restaurants, and public transportation to deny citizens service based on their race.

Jim Crow laws (Black Codes) Laws passed after the Civil War to overstep the basic human rights and civil liberties of African-Americans.
- civil disobedience A nonviolent approach of protest in the civil rights movement.
- Montgomery bus boycott A boycott of public transportation initiated by the arrest of Rosa Parks.
- Vietnam War A war from 1955 to 1975 involving Vietnam, Laos, and Cambodia.
- domino theory A claim that the continued fall of governments to communist rule would threaten democracy.
- War on Crime A declaration by President Lyndon Johnson in 1965 to counter crime and social disorder.
- Omnibus Crime Control and Safe Streets Act of 1968 An act that provided resources to local and state government to assist in the adoption of reforms, including the Law Enforcement Assistance Administration.
- Law Enforcement Assistance Administration (LEAA) A conduit for the transfer of federal funds to state and local law enforcement agencies.
- Law Enforcement Educational Program (LEEP) A program created to promote education among criminal justice personnel by offering loans and grants to pursue higher education.
- war on terrorism President George W. Bush’s declaration regarding the response of the United States to the events of September 11, 2001.
- enemy combatants The suspension of due process rights for accused terrorists under the enemy combatant executive order.
Summarize a defendant's due process rights.
The Fourteenth Amendment guarantees the principle of due process to the citizens of all states. Due process means that every defendant is given procedural rights in criminal cases and receives fairness and equity while being processed through the criminal justice system. Quite often due process rights are incorporated by U.S. Supreme Court decisions. A central premise of due process is that an accused person is presumed innocent of the charges prior to trial.
1. Which amendment provides due process for anyone accused of a crime?
2. How are federal rights granted to the states?

Summarize criminology, criminal law, and criminal justice.
The study of criminal behavior in the United States emerged in the twentieth century. Scientific research has become a large part of the academic discipline of criminal justice today. The study of human social behavior in a society is called sociology. The scientific study of the root causes of crime in society is known as criminology. Today, the field of criminal justice includes many other related fields.
1. What are two academic disciplines that conduct research in the criminal justice field?
2. How long has crime been studied by scholars in the United States?
3. What is the purpose of criminology?
sociology The study of human social behavior.
criminology The body of knowledge regarding crime as a social phenomenon.

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Go to Chapter 1 in MyCJLab to test your mastery of chapter concepts, access your Study Plan, engage in interactive exercises, complete critical-thinking and research assignments, and view related online videos.

- **Review:** Complete the pretest in the Study Plan to confirm what you know and what you need to study further. Then complete the post-test to confirm your mastery of the concepts. Use the key term flash cards to review key terminology.
- **Apply:** Complete the interactive simulation activity.
- **Analyze:** Complete assignments as directed by your instructor.
- **Current Events:** Explore CJSearch for current topical videos, articles, and news pieces.

Additional Links
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To read or download parts of the Declaration of Independence, the U.S. Constitution, and the Bill of Rights, go to [http://www.archives.gov/exhibits/charters/charters.html](http://www.archives.gov/exhibits/charters/charters.html).
Go to [http://www.aclu.org](http://www.aclu.org) to learn about this organization's efforts to preserve and protect individual rights in legislation, courts, and communities.
Go to [http://www.criminalfindlaw.com](http://www.criminalfindlaw.com) and learn about the stages in a typical criminal case, tips on your constitutional rights, and information about criminal records.