

CRIMINAL JUSTICE



A **BRIEF**
INTRODUCTION

tenth edition

FRANK SCHMALLEGER

Careers in Criminal Justice

Arson/Fire Investigator	Magistrate	U.S. Bureau of Reclamation Security, Safety, and Law Enforcement Officer
Bailiff	Motorcycle Officer	U.S. Central Intelligence Agency (CIA) Agent
Bounty Hunter	National Security Agency (NSA) Police	U.S. Coast Guard (USCG) Compliance Officer
Computer Forensic Technician	Native American Tribal Police Officer	U.S. Coast Guard (USCG) Sea Marshal
Correctional Officer	Nuclear Security Officer	U.S. Customs and Border Protection (CBP) Special Agent
Correctional Treatment Specialist	Paralegal	U.S. Department of Agriculture (USDA) Compliance Officer
Court Clerk	Park Ranger	U.S. Department of Agriculture (USDA) Criminal Investigator
Court Reporter	Parole Agent	U.S. Department of Agriculture (USDA) Investigative Attorney
Crime Analyst	Parole Officer	U.S. Department of State Civilian Response Corps Team Member
Crime Laboratory Analyst	Peace Officer	U.S. Department of State Diplomatic Security Officer
Crime Prevention Specialist	Penologist	U.S. Department of Veterans Affairs (VA) Police
Crime Scene Investigator	Police Detective	U.S. Drug Enforcement Agency (DEA) Special Agent
Electronic Crime Scene Investigator	Police Dispatcher	U.S. Fish and Wildlife Service Division of Refuge Law Enforcement Officer
Forensic Psychologist	Police Officer	U.S. Immigration and Customs Enforcement (ICE) Special Agent
Crime Laboratory Analyst	Police Sniper	U.S. Internal Revenue Service (IRS) Special Agent
Crime Scene Technician	Private Detective	U.S. Marine Corps Criminal Investigator
Criminal Investigator	Private Investigator	U.S. Marine Corps Military Police Officer
Criminalist	Private Security Guard	U.S. Marshal
Criminologist	Private Security Manager	U.S. Air Marshal
Criminology Researcher/Research Associate	Probation Officer	U.S. Navy Criminal Investigator
Deputy Sheriff	Railroad Police	U.S. Navy Law Enforcement Officer
Federal Bureau of Investigation (FBI) Forensic Accountant	Security Guard	U.S. Navy Security Officer
Federal Bureau of Investigation (FBI) Special Agent	Security Officer	U.S. Secret Service Special Agent
Federal Protective Service (FPS) Officer	Sheriff	U.S. Secret Service Uniformed Division Officer
Fish and Game Warden	Social Worker	U.S. Transportation Security Administration (TSA) Screener
Forensic Nurse	State Trooper	United States Park Police
Forensic Psychologist	Substance Abuse Counselor	University/College Campus Police Officer
Forensic Science Technician	Surveillance Officer	
Fraud Investigator	SWAT Team Member	
Gaming Surveillance Officer	Transit Authority Police	
Highway Patrol Officer	U.S. Air Force Office of Special Investigations (OSI) Special Agent	
Information Security Manager	U.S. Air Force Security Force Officer	
Information Security Technician (entry-level)	U.S. Army Criminal Investigator	
Judge	U.S. Army Military Police Officer	
Juvenile Probation Counselor	U.S. Bureau of Alcohol, Tobacco, Firearms and, Explosives (ATF) Special Agent	
Juvenile Probation Officer	U.S. Bureau of Indian Affairs (BIA) Investigator	
K-9 Officer	U.S. Bureau of Indian Affairs (BIA) Police Officer	
Lawyer/Attorney	U.S. Bureau of Indian Affairs (BIA) Corrections Officer	
Legal Clerk	U.S. Bureau of Indian Affairs (BIA) Drug Enforcement Special Agent	
Legal Nurse Consultant		
Loss Prevention Specialist (retail)		

Criminal Justice



THE CRIMINAL

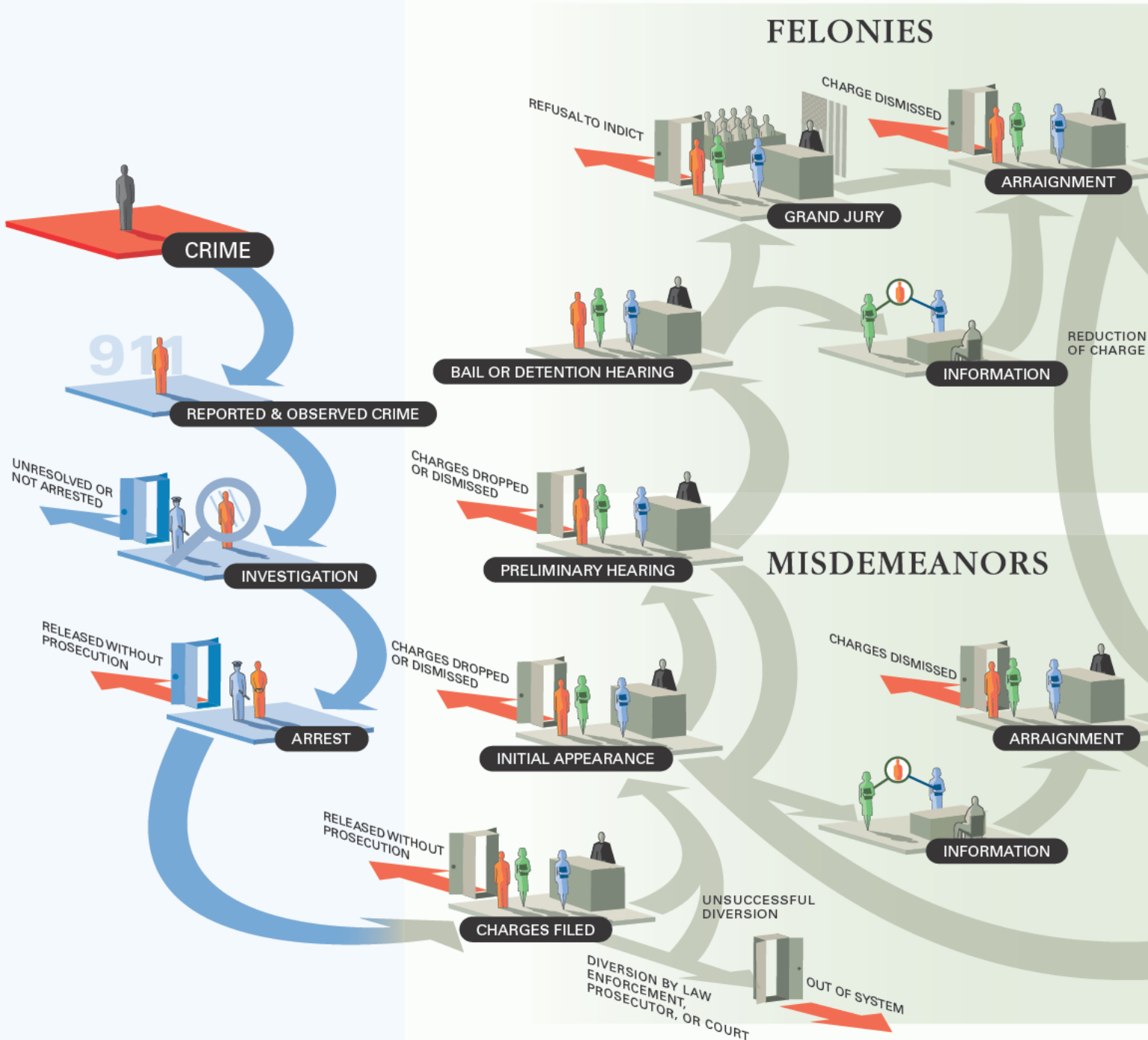
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ADJUDICATION



JUSTICE SYSTEM

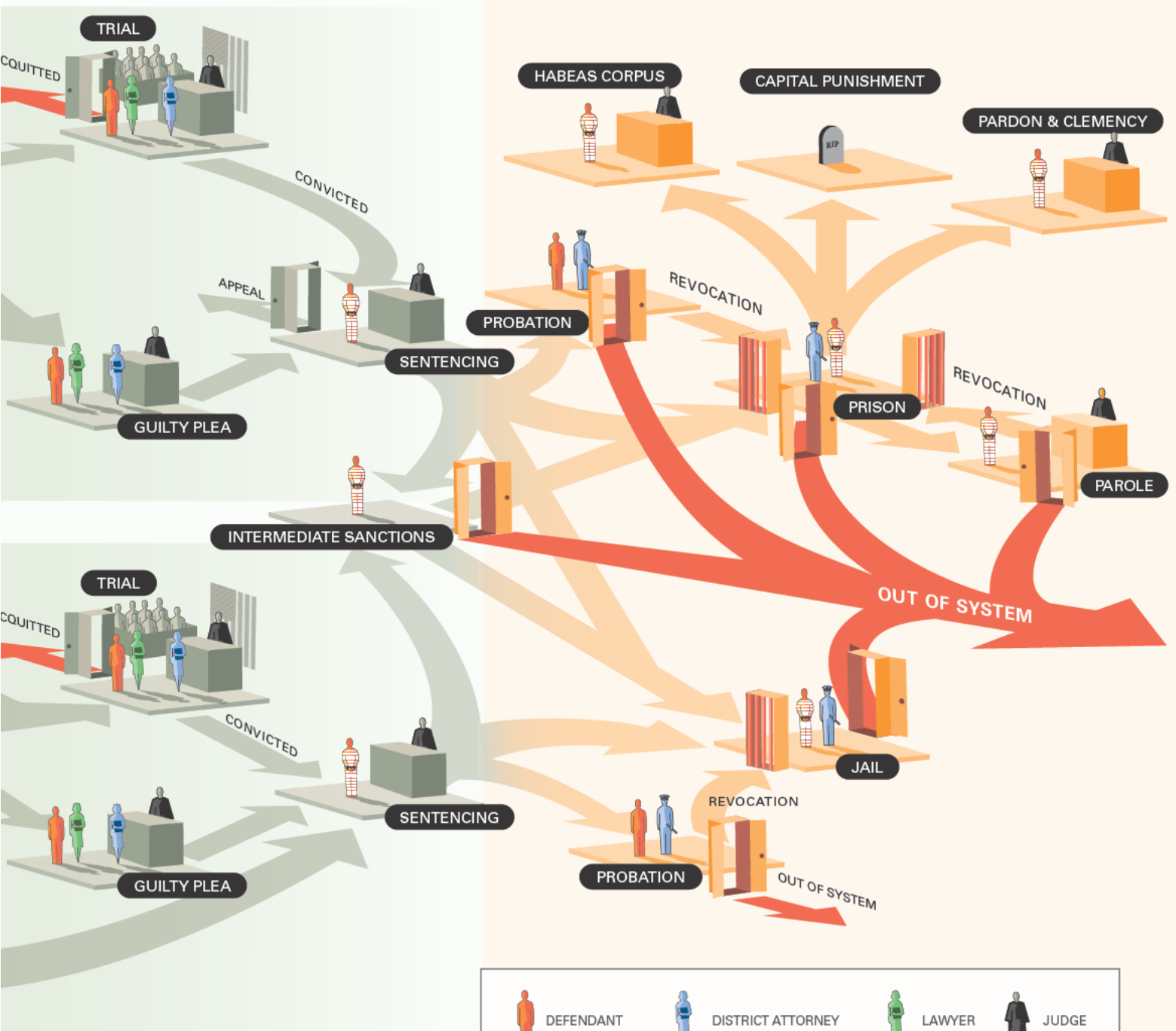
CORRECTIONS








SENTENCING & SANCTIONS

PROBATION

PRISON

PAROLE



	DEFENDANT		DISTRICT ATTORNEY		LAWYER		JUDGE
	LAW ENFORCEMENT		CONVICT		OUT OF SYSTEM		

For Nicole, Malia, Ava, and Michelle



Criminal Justice

A Brief Introduction

Tenth Edition

Frank Schmalleger, Ph.D.
Distinguished Professor Emeritus
The University of North Carolina at Pembroke

PEARSON

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Preface

Criminal justice is a dynamic field of study. Consider these challenges for instructors and students trying to keep pace with a field that is undergoing continual modification: the ever-evolving nature of crime, newsworthy law enforcement initiatives, budgetary constraints, ongoing threats to our nation's security, newly enacted statutes, innovations in enforcement and justice-system technology, precedent-setting U.S. Supreme Court decisions, a changing American society, and rapidly emerging innovations in correctional practice.

As accelerated change engulfs the American criminal justice system today, it is appropriate that a streamlined and up-to-date book like this should be in the hands of students. Quick and easy access to accurate and current information has become a vital part of contemporary life. *Criminal Justice: A Brief Introduction* provides such access through its printed pages and interactive website with videos.

The first edition of *Criminal Justice: A Brief Introduction*, which was published before the Internet had become the ubiquitous tool that it is today, resulted from the realization that justice students need to have current information presented in a concise and affordable source. With each new edition, the availability of up-to-date crime- and justice-related information has increased. Like many of its predecessors, the tenth edition draws upon the wealth of Internet resources that serve the needs of criminal justice students and practitioners. It ties those important resources to central ideas in the text, expanding learning opportunities far beyond what was possible in the mere 400 pages of the first edition. In particular, URLs printed in the book point the way to criminal justice agencies and organizations on the Internet, as well as to full-text documentation of many critical contemporary issues.

True to its origins, the tenth edition, which is now available in a variety of print and electronic formats, focuses on the crime picture in America and the three traditional elements of the criminal justice system: police, courts, and corrections. Real-life stories, career information, up-to-date examples and issues, engaging graphics, and interactive media all contribute to this timely and user-friendly introduction to criminal justice. Key features include:

Freedom or Safety? You Decide boxes in each chapter highlight the book's ever-evolving theme of individual rights versus public order, a hallmark feature of this text since the first edition. In each chapter of the text, Freedom or Safety boxes build on this theme by illustrating some of the personal rights issues that challenge policymakers today. Each box includes critical-thinking questions that ask readers to ponder whether and how the criminal justice system balances individual rights and public safety.

Freedom or Safety? You Decide. Religion and Public Safety

In April 2011, the French government initiated a ban on the wearing of veils, or Islamic burkas, following a number of terrorist incidents. French police can impose fines on women who wear veils in public, although recent reports reveal that few women have actually been ticketed.

The French ban was preceded by an incident in Florida in 2003, when state Judge Janet Thorpe ruled that a Muslim woman could not wear a veil while being photographed for a state driver's license. The woman, Sultaana Freeman, claimed that her religious rights were violated when the state department of motor vehicles required that she reveal her face for the photograph. She offered to show her eyes, but not the rest of her face, to the camera.

Judge Thorpe said, however, that a "compelling interest in protecting the public from criminal activities and security threats" did not place an undue burden on Freeman's ability to practice her religion.

After the hearing, Freeman's husband, Abdu-Maalik Freeman, told reporters, "This is a religious principle; this is a principle that's imbedded in us as believers. So, she's not going to do that." Howard Marks, the Freemans' attorney, supported by the ACLU, filed an appeal claiming that the ruling was counter to

guarantees of religious freedom inherent in the U.S. Constitution. Two years later, however, a Florida court of appeals denied further hearings in the case.

YOU DECIDE

Do the demands of public safety justify the kinds of restrictions on religious practice described here? If so, would you go so far as the French practice of banning the wearing of veils in public? As an alternative, should photo IDs, such as driver's licenses, be replaced with other forms of identification (such as an individual's stored DNA profile) in order to accommodate the beliefs of individuals like the Freemans?

Reference: "Judge: No Veil in Driver's License Photo," Associated Press, June 6, 2003; Associated Press, "FL Appeals Court Upholds Ban of Veil in Driver's License Photo," September 7, 2005, <http://www.newsday.com/news/nationworld/nation/or-bk-freeman090705.0.2758466.story?coll=ny-leadnationalnews-headlines> (accessed April 17, 2012); Andrew Chung, "French Ban on Islamic Veil Turns Out to Be Toothless," *Toronto Star*, March 31, 2012, <http://www.thestar.com/news/world/article/1154781-french-ban-on-islamic-veil-turns-out-to-be-toothless> (accessed May 20, 2012).

CJ News boxes in each chapter present case stories from the media to bring a true-to-life dimension to the study of criminal justice and allow insight into the everyday workings of the justice system.


CJ NEWS
"Flash Robs": The Next Social Media Phenomenon

"Flash mobs," where text-messaging or Twitter brings together large groups of people for spontaneous events, have irked police because they lack permits and may be disruptive. Now, however, police are facing a more serious problem: "flash robs," where social media directs people—often teenagers—to go to retail stores and rob them.

Unlike conventional robberies, flash robs have the feel of a mob looting a store. When social media bring people together, they often don't even know each other and very little planning has taken place. Videos on YouTube show scores of jubilant teenagers filing into a convenience store and helping themselves to snacks and sodas, as employees helplessly look on. It all lasts a matter of minutes.

This is "mob behavior but it has some pre-meditation, which is a new thing," said Read Hayes, a University of Florida research scientist, in an interview with the *Wall Street Journal*.

According to a July 2011 poll by the National Retail Federation, 10% of storeowners reported they were victims of flash robs in the past 12 months, and half of them said they experienced




▲ A flash robbery in progress. How have social media changed the nature of criminal activity in this country?
Richard Sennott/ZUMA Press/Newscom

CJ Careers boxes outline the characteristics of a variety of criminal justice careers in a Q&A format, to introduce today's pragmatic students to an assortment of potential career options and assist them in making appropriate career choices.

CJ Careers
Security Professional

Name: Ryan James Strahan
Position: Security professional, Palm Beach Gardens, Florida



Colleges attended: Palm Beach State College
 Criminal Justice Institute/Vocational Certificate
 Law Enforcement Officer Florida CMS
 Recruit Training Program

Majors: Basic Law Enforcement/Criminal Justice
Year hired: 2011


Please give a brief description of your job: As a security professional working in a private gated residential community, I deal with people on a day-to-day basis using the decision-making and problem-solving skills needed to maintain a harmonious and safe environment for the people living in, working in, and visiting the community.

What appealed to you most about the position when you applied for it? I have experience with event security for the Daytona Beach Bike Week and Biketoberfest.

What is a typical day like? Each day starts with a shift change where the guards read the activity log and discuss what is happening in the community since the last time they worked. We go over what needs to be done for the shift and communicate with our supervisor on any issues that need to be addressed. The shift is spent multitasking—taking information from people coming and going who are doing work or visiting the community, patrolling the community looking for anything out of the ordinary, and helping the residents with whatever we can do to give them the highest level of service.

Like most private communities, my employer has SOPs. These provide a structure that all employees are expected to use as performance guidelines. It is a format that we all follow in order to maintain high job-performance standards. SOPs involve how we patrol, direct traffic, do perimeter checks, perform extra-duty house checks, and all other aspects of the job.

What qualities/characteristics are most helpful for this job?



Courtesy of The Justice Research Association and Ryan Strahan

Multiculturalism and Diversity boxes present aspects of criminal justice that are related to the diverse nature of American society and emphasize the need for justice-system personnel capable of working with culturally diverse groups.

Multiculturalism and Diversity Race and the Criminal Justice System, Part I

Several years ago, Professor Lani Guinier of the University of Pennsylvania School of Law was interviewed on *Think Tank*, a public television show. Guinier was asked by Ben Wattenberg, the program's moderator, "When we talk about crime, crime, crime, are we really using a code for black, black, black?" Guinier responded this way: "To a great extent, yes, and I think that's a problem, not because we shouldn't deal with the disproportionate number of crimes that young black men may be committing, but because if we can't talk about race, then when we talk about crime, we're really talking about other things, and it means that we're not being honest in terms of acknowledging what the problem is and then trying to deal with it."¹

Crimes, of course, are committed by individuals of all races. The link between crimes—especially violent, street, and predatory crimes—and race, however, shows a striking pattern. In most crime categories, arrests of black offenders equal or exceed arrests of whites. In any given year, arrests of blacks account for more than 50% of all arrests for violent crimes. Blacks, however, comprise only 12% of the U.S. population. When rates (which are based on the relative proportion of racial groups) are examined, the statistics are even more striking. The murder rate among blacks, for example, is ten times that of whites. Similar rate comparisons, when calculated for other violent crimes, show that far more blacks than whites are involved in other street crimes, such as assault, burglary, and robbery. Related studies show that 30% of all young black men in America are under correctional supervision on any given day—a far greater percentage than for members of any other ethnic group in the country.²

The real question for anyone interested in the justice system is how to explain such huge race-based disparities. Contemporary research appears to disprove claims that today's American justice system is racist.

Some authors maintain that racial differences in arrests and in rates of imprisonment are due to the differential treatment of African Americans at the hands of a discriminatory criminal justice



▲ Members of the National Association for the Advancement of Colored People (NAACP) protesting the police use of Tasers. Some claim that the justice system puts members of underrepresented groups at risk for unfair treatment. Others say the system

Ethics and Professionalism boxes present ethical codes that criminal justice practitioners are asked to uphold, highlighting the vital role of moral and ethical standards and behavior in their daily lives and to the high social expectations inherent in justice-related careers. Included are the ethical codes of the American Correctional Association, the American Probation and Parole Association, the International Association of Chiefs of Police, the American Bar Association, and the American Jail Association

Ethics and Professionalism The Law Enforcement Code of Ethics

As a Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without

fear or favor, malice or ill will, never employing unnecessary force or violence, and never accepting gratuities.

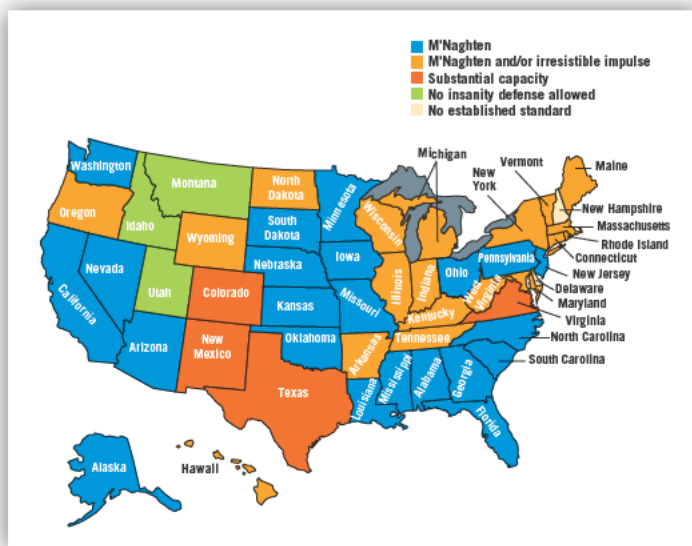
I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

THINKING ABOUT ETHICS

1. Why does the Law Enforcement Code of Ethics ask law enforcement officers "to respect the Constitutional rights of all men to liberty, equality, and justice"? Does such respect further the goals of law enforcement? Why or why not?
2. Why is it important for law enforcement officers to keep their private lives "unsullied as an example to all"? What are the potential consequences of not doing so?

Source: International Association of Chiefs of Police. Reprinted with permission.

Graphics such as full-color diagrams, illustrations, timelines, and photographs reinforce key concepts for easier understanding and make the chapter topics both understandable and interesting. In recognition of the visual orientation of today's learners, we have worked to achieve a comprehensive integration of graphic art with the concepts and ideas of criminal justice. Consequently, the layout and design of the text are highly visual, inviting readers to explore its pages while powerfully illustrating the critical concepts that are central to the field of criminal justice.



As the author of numerous books on criminal justice, I have often been amazed at how the end result of the justice process is sometimes barely recognizable as “justice” in any practical sense of the word. It is my sincere hope that the technological and publishing revolutions that have contributed to the creation and development of this book will combine with a growing social awareness to facilitate needed changes in our system and will help replace self-serving, system-perpetuated injustices with new standards of equity, compassion, understanding, fairness, and heartfelt justice for all. If you use this book, I'd like to hear from you. Please write to me at the e-mail address below.

Frank Schmalleger, Ph.D.

Distinguished Professor Emeritus
The University of North Carolina at Pembroke
cjtoday@mac.com

New to the Tenth Edition

General Changes

NEW! Paying for It

These boxes in Chapters 4, 7, 11, and 12 highlight the budgetary challenges facing state and local governments as they work to provide justice services to communities in the face of an increasingly difficult economic environment.

PAYING FOR IT
Cost-Efficient Criminal Justice

The Great Recession of the past few years has forced state and local governments to make some hard choices about budgets. As government revenues declined due to a drop in taxable income, consumer spending, lower property values, and fewer licensing fees, officials in many locales have been forced to reduce expenditures and to curb services. Criminal justice agencies have not been immune to the impact of budget cuts, and many are looking for ways to offer quality services at a lower cost. To discuss today's concern with cost-efficiency throughout the justice system, a number of boxes like this one appear throughout the text and describe what police departments, courts, and corrections agencies are doing as they move toward increasingly responsible stewardship of taxpayer dollars. Noteworthy is the fact that today's emphasis on the efficient use of resources has combined with calls for greater accountability and transparency in government spending.

In an effort to help justice agencies utilize resources wisely, the U.S. Department of Justice announced a new website in 2012. Located at <http://crimesolutions.gov>, the site is designed to provide policymakers, justice system administrators, and taxpayers with the ability to assess the effectiveness of state and local anticrime programs. The site, run by the Washington, D.C.-based National Institute of Justice (NIJ), has been described by federal officials as a "single, credible, online resource to inform practitioners and policymakers about what works in criminal justice, juvenile justice, and crime victim services."

Once criminal justice programs have been selected for review, experts working with the NIJ analyze available research documenting the program's effectiveness and cost-efficiency. Programs are then scored on CrimeSolutions.gov according to established criteria and identified as either: (1) effective, (2) promising, or (3) no effects. Where evidence on a program is insufficient or inconsistent, it receives no ranking. As of this writing, 33% of programs reviewed have been scored as "effective," whereas another 57% were identified as "promising." Visit the topics page of

Evidence Rating*

Effective ✓

Programs have strong evidence to indicate they achieve their intended outcomes when implemented with fidelity.

Promising ✓

Programs have some evidence to indicate they achieve their intended outcomes.

No Effects ✗

Programs have strong evidence indicating that they had no effects or had harmful effects when implemented with fidelity.

FIGURE 1-5
The Rating System Used by CrimeSolutions.gov

CrimeSolutions.gov at <http://www.crimesolutions.gov/topics.aspx> to learn more about the categories of programs being evaluated.

References: CrimeSolutions.gov

Freedom or Safety? You Decide

New Freedom or Safety boxes have been added to Chapters 5, 6, and 10, and the box in Chapter 2 has been updated.

CJ News

All CJ News boxes have been replaced with entirely new stories drawn from today's media. New story topics include:

- "Flash robs"
- The case of *U.S. v. Jones*, in which the U.S. Supreme Court held that the use of GPS tracking devices by the police must be supported by a warrant
- Using DNA to solve difficult cases and using CODIS
- Filming police activities in public
- How cutbacks in state budgets have affected courts in much of the nation
- How death-row exonerations based on DNA evidence expose flaws in the legal system
- How high costs are leading states to reconsider the death penalty
- Using GPS tracking for the purpose of supervising persons under supervision in the community
- Bullying
- The Girls Study Group

CJ Careers

New CJ Careers boxes have been added to Chapters 1, 4, 8, and 12 in the areas of private security, the courts, corrections, and juvenile justice.

Learning Objectives

The Learning Objectives at the beginning of each chapter have been restated to make them easier to grasp. They are now clearly aligned with each main chapter heading, the summary, and the discussion questions at the end of each chapter.

After reading this chapter, you should be able to:

1. Describe the FBI's UCR/NIBRS Program, including its purpose, history, and what it tells us about crime in the United States today. **24**
2. Describe the National Crime Victimization Survey Program, including its purpose, history, and what it tells us about crime in the United States today. **44**
3. Compare and contrast the UCR and the NCVS data collection and reporting programs. **45**
4. Describe how any three of the special categories of crime discussed in this chapter are significant today. **47**

Related Websites

Web and Library Extras are now available to all readers as direct URLs, and are no longer referred to as "Extras."

Global Updates

Numerous new photographs have been added throughout the text, statistics have been updated, and coverage of evidence-based practices has been expanded.

Chapter-Specific Changes

Chapter 1 What Is Criminal Justice?

- The case of Texas billionaire R. Allen Stanford, 61, who was convicted in 2012 by a federal jury in a \$7 billion Ponzi scheme, has been added.
- The call issued by John H. Laub, director of the National Institute of Justice (NIJ), for the creation of a "culture of science and research" within the institute is discussed.
- The NIJ website, www.crimesolutions.gov, is described as a new online resource to inform practitioners and policymakers about what works in criminal justice, juvenile justice, and crime victim services.
- The impact of the Great Recession of the past few years is described as a significant force that has led state and local governments into making some hard choices about budgets in the justice area.

Chapter 2 The Crime Picture

- The new Uniform Crime Report (UCR) definitions of "rape" and "forcible rape," adopted by the Federal Bureau of Investigation in 2012, have replaced older ones throughout the chapter.
- The chapter now contains a link to the UCR table-building tool that allows readers to create a view of crime statistics that are of special interest to them.
- The issue of crime reporting manipulation by police agencies is discussed.
- The term "strikable offense" has been added to the chapter.

- The box on identity theft has been made a part of the chapter's main text, and now begins with the example of Facebook's efforts to prevent theft of the identities of its many users.
- The new NCVS Victimization Analysis Tool (NVAT) is described, and readers are encouraged to make use of it.
- A description of the Mexican drug war and of other international crimes has been added.
- The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act is now discussed. Also included is the case of Rutgers University student Dharun Ravi, who was convicted of biased intimidation and invasion of privacy by a New Jersey jury following the 2010 suicide death of Tyler Clementi.
- A discussion of antigovernment patriot organizations has been added to the section on hate crimes.
- The infamous case of Kim Dotcom, the creator of Megaupload.com, and Internet piracy are described.
- A new section on crime in an international context has been added, including a discussion of transnational offenses, the United Nations World Crime Surveys, and the National Institute of Justice's International Center.

Chapter 3 Criminal Law

- The case of former House Majority Leader Tom DeLay has been added to further illustrate the important concept of the rule of law.
- The 2010 U.S. Supreme Court case of *Holder v. Humanitarian Law Project*, which addresses the need to distinguish protected free speech from speech that constitutes criminal support of a terrorist organization, is now included.
- The discussion of Islamic law has been expanded.
- The rationale underlying laws that support resisting unlawful arrest has been clarified.
- The discussion of police fraud as a defense to a criminal charge has been expanded.

Chapter 4 Policing: Purpose and Organization

- This chapter now opens with a story about Occupy Wall Street protestors and highlights the need for police agencies to maintain public order.
- A link to the online service <http://crimereports.com> is offered as a way of viewing criminal incidents in selected neighborhoods.
- The section on the FBI has been revised to include the agency's growing emphasis on economic, mortgage, and financial fraud investigations.
- The discussion of police fusion centers has been updated to include coverage of the fifth National Fusion Center Conference in Denver, Colorado, and a new definition of the term "fusion center" has been added.
- The discussion of private protective services has been moved to this chapter, and a list of some of the larger private security agencies is provided.
- A description of international police agencies, including Interpol and Europol, has been added.
- The discussion of evidence-based policing has been expanded.

Chapter 5 Policing: Legal Aspects

- A new chapter-opening story is provided to illustrate the possible abuse of police power and the potential it holds for civil liability.
- *Writ of certiorari* has been added as a new key term.
- The 2011 case of *Kentucky v. King*, in which the U.S. Supreme Court overruled a Kentucky Supreme Court decision and found that police officers had legally entered a suspected drug dealer's apartment without a warrant when they smelled marijuana outside the residence, has been added.

- The 2012 case of *Howes v. Fields*, in which the U.S. Supreme Court held that “custody is a term of art that specifies circumstances that are thought generally to present a serious danger of coercion,” has been added.
- Discussion has been added of the 2011 U.S. Supreme Court case of *Davis v. U.S.*, which created a good-faith exception to the exclusionary rule applicable to a search that was authorized by precedent at the time of the search, but that was a type of search that was subsequently ruled unconstitutional.
- Discussion has been added of the 2010 U.S. Supreme Court case of *Maryland v. Shatzer*, in which the Court held that police could reinitiate the interrogation of a suspect who had invoked his or her right to counsel following a 14-day or longer break in questioning.
- There’s more discussion of the 2010 U.S. Supreme Court case of *Berghuis v. Thompson*, in which the Court held that a suspect must unambiguously assert his or her right to remain silent before the police are required to end their questioning.

Chapter 6 Policing: Issues and Challenges

- Police corruption is the focus of a new story.
- The chapter now includes discussion of the Badge of Life organization, which promotes mental health services for police officers.
- A new story now begins the section on police civil liability; a new story about the New Orleans Police Department opens the section on federal lawsuits.
- The section on racial profiling includes discussion of the 2011 investigation of the New Orleans Police Department by the Civil Rights Division of the U.S. Department of Justice.
- The 2011 investigation of the New Orleans Police Department by the Civil Rights Division of the U.S. Department of Justice is discussed in detail under the chapter section entitled “Police Use of Force.”

Chapter 7 The Courts

- The chapter-opening story has been revised.
- The discussion of the International Criminal Court has been enhanced.
- Two 2012 U.S. Supreme Court decisions (*Missouri v. Frye* and *Lafley v. Cooper*) holding that the Sixth Amendment right to effective assistance of counsel applies to all critical states of criminal proceedings, including that of plea bargaining, have been added to the chapter.

Chapter 8 The Courtroom Work Group and the Criminal Trial

- The chapter-opening story has been revised and updated.
- A discussion of the 1993 U.S. Supreme Court cases of *Daubert v. Merrell Dow Pharmaceuticals* and the 2011 case of *Bullcoming v. New Mexico* has been added to the chapter to explain the use and admissibility of scientific evidence at trial.
- The terms “reasonable doubt” and “reasonable doubt standard” are now defined in the chapter.
- The discussion of federal sentencing guidelines in the wake of recent U.S. Supreme Court decisions has been updated.
- The 2010 federal Fair Sentencing Act and its implications are now discussed.

Chapter 9 Sentencing

- A new federal government website, www.crimevictims.gov, the purpose of which is to teach citizens about the rights of victims of crime, is described.
- Connecticut has been added to the list of states without a death penalty, as it abolished it in 2012.

- The 2010 U.S. Supreme Court case of *District Attorney's Office v. Osborne*, in which the Court held that there is no fundamental constitutional right to access DNA-testable evidence long after a criminal conviction is final, has been added.
- Added discussion of the 2008 U.S. Supreme Court case of *Kennedy v. Louisiana*, in which the Court found that the Eighth Amendment bars states from imposing the death penalty for the rape of a child where the crime did not result, and was not intended to result, in the victim's death.

Chapter 10 Probation, Parole, and Community Corrections

- The chapter begins with a new story.
- Medical parole has been added to the types of parole that the chapter discusses.
- California's new nonrevocable parole is discussed.
- Discussion of the SVORI program has been updated and reduced.
- Hawaii's HOPE program, a highly successful probation initiative that addresses probation violations in a swift, certain, and proportionate manner, is discussed.

Chapter 11 Prisons and Jails

- The chapter begins with a new story.
- Statistics have been updated throughout the chapter, and declines in the rate of imprisonment and the numbers of prisoners at the state level are recognized and addressed.
- A new box about evidence-based corrections is now found in this chapter.
- The 2011 U.S. Supreme Court case of *Brown v. Plata*, under which California was ordered to reduce its prison population, is discussed.
- The challenges faced by state correctional systems in the face of state budgetary shortfalls are discussed.

Chapter 12 Prison Life

- The chapter begins with a new story.
- The section on prison argot is slightly changed.
- The Bureau of Justice Statistics' third annual Prison Rape Elimination Act national survey is discussed.
- Information about incarcerated mothers and their minor children has been updated and expanded.
- The term "gender-responsiveness" is now defined and additional information about the concept is provided.
- The website www.discovercorrections.com, which features information for anyone interested in working in the field of corrections, is featured.
- The information on prison riots is enhanced.
- The table of important U.S. Supreme Court cases involving prisoners' rights claims has been expanded with the addition of three important new cases.

Chapter 13 Juvenile Justice

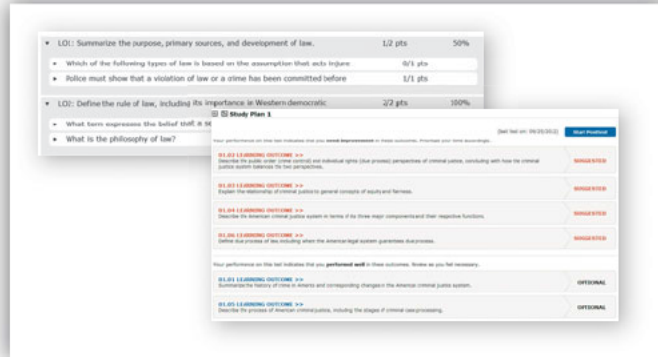
- The chapter begins with a new story.
- The 2011 U.S. Supreme Court case of *J.D.B. v. North Carolina*, which held that the age of suspects must be considered when determining whether they would feel free not to respond to police questioning, has been added.
- California's new strategy of juvenile justice realignment, and legislation in Texas combining the former Texas Youth Commission with the Texas Juvenile Probation Commission into one agency (the Texas Juvenile Justice Department) are described.

MyCJLab™ for Criminal Justice: A Brief Introduction, Tenth Edition

MyCJLab™ is a dynamic course management and assessment program designed to support the way students learn and instructors teach. Instructors can either manage their entire course online or simply allow students to study at their own pace using personalized assessment tools and pre-loaded interactive exercises and critical thinking assignments. CJSearch, Pearson’s new media search tool built into MyCJLab, makes it easy to integrate current events into your course. Key features of the program include:

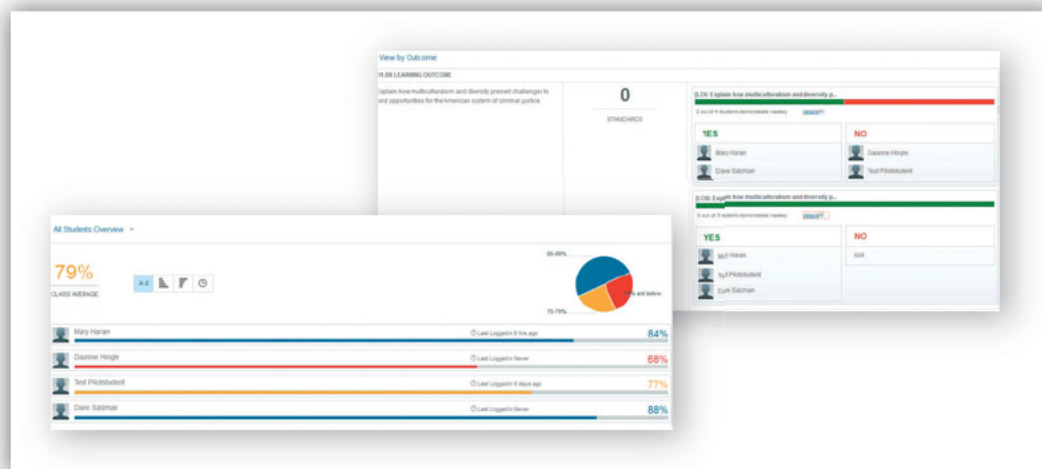
► Personalized Learning

Students are provided with a personalized study plan for each chapter in the text organized by learning objective. A pre-test allows them to see what concepts they understand and what concepts they need to study further. Student responses link back to the eText and PowerPoints for further review. Finally, a post-test allows them to confirm their mastery of chapter concepts. Pre- and post-test results can be sent to the grade book at the instructors’ discretion.



It’s very impressive that both the pre- and post-tests are able to tell students exactly what areas they need to focus on.

—David Pasick, Mohawk Valley Community College

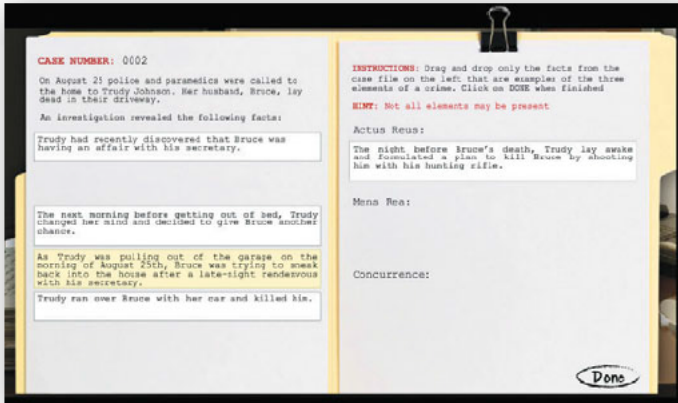


◀ Grade Book and Performance Tracking

Grade book and performance features allow instructors to keep track of students’ grades for individual learning objectives at both the class and individual level. This reporting helps instructors tailor lesson plans around concepts that need more review.

I really like this concept. Great concept and great navigation!

—Angela Nickoll, Ball State University



▲ Interactive Concept Application

Interactive exercises allow the student to apply chapter concepts and deepen understanding through interactions in the criminal justice system and simulated scenarios.

I like the re-teaching aspect of the simulations. Even if the students have the knowledge to complete an activity, the information will help set up the activity and draw in the focus of the students to the task at hand.

—Jay Kramer, Central Georgia Technical College

Critical Analysis Assignments

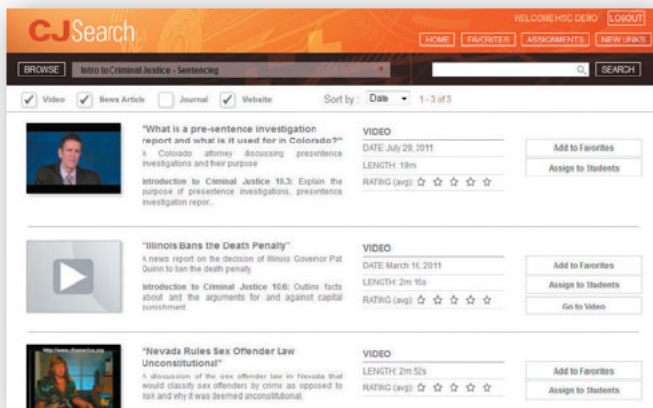
Each chapter features assignable critical thinking exercises that ask students to analyze crucial concepts and objectives. Students are asked to process and expand their knowledge through further research, going into the field, examining news or media resources, or exploring real-life issues and situations.

I would use CJSearch to prepare students in advance for class discussions of material. . . . Its utility as a teaching resource is endless.

—Cornel Plebanl, Husson University





CJSearch: Current Event Videos, News Articles, Journal Readings, Websites

CJ Search is a database of criminal justice videos, articles, journal readings, and websites that instructors can search by topic and deliver to the class as an assignment. Each item has a critical thinking assignment tagged to learning objectives and the database is continuously updated and augmented making it easy to integrate current events into the course.



Connecting Your Textbook with MyCJLab

Within the textbook, you will see icons that direct student to the following online resources:

-  **Review:** Directs students to the Study Plan where they first complete the pre-test to confirm what they know and what requires further study, and then complete the post-test to confirm mastery of the concepts. Key term flash cards are also available to review key terminology.
-  **Apply:** Directs students to an interactive activity or simulation to practice a chapter concept.
-  **Analyze:** Directs student to complete assignments as directed by your instructor.
-  **Current Events:** Directs students to explore CJSearch for current topical videos, articles, and news pieces.

MyCJLab Purchasing Options

Whether you're an expert in digital learning or new to online teaching, *MyCJLab* provides student engagement and instructor support for all levels of teaching and learning.

Printed Textbook with MyCJLab Access Code Value Packs:

- Criminal Justice 10e print textbook with MyCJLab (without eText) for Criminal Justice 10e Access Code Valuepack (ISBN: 0-13-340724-1)
- Criminal Justice 10e print textbook with MyCJLab (with integrated eText) for Criminal Justice 10e Access Code Valuepack (ISBN: 0-13-314073-3)

Students can purchase an access code separately to MyCJLab by going to **www.MyCJLab.com**.

Instructor Supplements

The following supplementary materials are available to support instructors' use of the main text:

- **eBooks.** *Criminal Justice* is available in two eBook formats, *CourseSmart* and Adobe Reader. *CourseSmart* is an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With a *CourseSmart* eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, or to purchase access to the *CourseSmart* eTextbook, visit www.coursesmart.com.



Type of Situation	Example	Police Response
Civil Disobedience 	Refusing to move for police officers who are trying to establish crowd-control lines; rioting, setting fires, and looting.	Respect of constitutional rights to free expression and assembly. In celebratory gatherings, fine line between maintaining order and permitting gatherers to enjoy the moment.
Crisis Situations 	Hostage taking, barricaded suspects, and suicide attempts.	The initial few hours of incident are the most dangerous. An assault by police threatens the lives of suspect and hostages. As time progresses, suspect has a chance to calm down.

FIGURE 1.8 Civil Disobedience and Crisis Situations.

► **Investigations**

Criminal investigation is one of the most important police functions—and certainly the most romanticized. Investigation is largely carried out by detectives—sworn officers who have moved up from patrol to something of a “glamour” job wherein they spend their days solving crimes. Detective work would be unnecessary if patrol officers were able to catch all crimes in progress. Of course, they hardly ever do this, in part because they are spread so thin—hence the need for a dedicated criminal investigations division.

Large police agencies often have hundreds of detectives in various divisions covering offenses that run the gamut from homicide to check fraud. Indeed, a study by the RAND Corporation revealed that police departments in every city with a population of more than 250,000 people, and 90 percent of those in smaller cities, have dedicated detectives.⁶⁰

The Evolution of Investigations

At the heart of any investigation is the practice of **criminalistics**, which refers to the scientific study and evaluation of evidence.

Anthropometry and Dactylography

Some fundamentals of detective work were developed well over 100 years ago. **Anthropometry** (also known as *Bertillon measurements*), a technique for identifying people based on their body measurements, was developed in 1882. Alphonse Bertillon, who developed this technique, concluded that if just eleven measurements were taken on a person, the odds of finding someone with similar measurements were 4,191,304 to 1.⁶¹ The problem, though, was in attempting to use these measurements to identify those who would be most likely to commit crime. Bertillon successfully identified some criminals, but his ideas fell out of favor because they were inaccurate and a bit complicated. They were replaced by the more accurate identification practice of **dactylography**, or fingerprinting. Dactylography was proposed for criminal investigation around 1880 in England,⁶² but knowledge of fingerprints far predated the routine use of such prints to identify criminals. In the first century, for example, a Roman lawyer by the name of Quintilianus used a bloody fingerprint from what was apparently a crime scene to defend a child who was accused of murdering his father.⁶³

Throughout the 1880s, fingerprinting continued to gain popularity as a valid technique for identifying criminal perpetrators. Once it was accepted practice (in the mid-1890s), it was successfully used in a number of high-profile contexts. For example, in 1904, Detective Sergeant Joseph Paurot of

LEARNING OUTCOMES

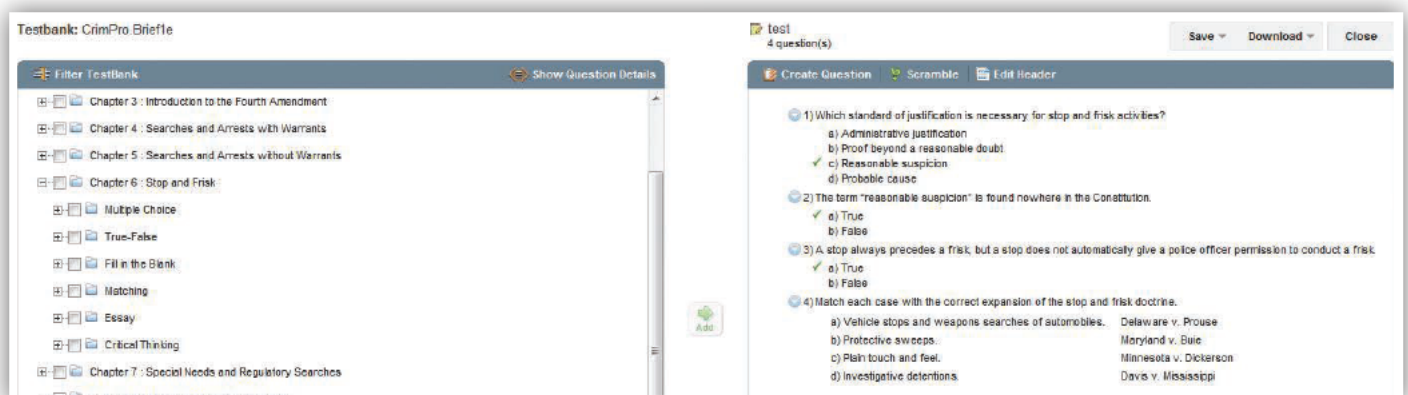
Identify investigative goals and explain the investigative process.

GLOSSARY

criminalistics The use of technology in the service of criminal investigation; the application of scientific techniques to the detection and evaluation of criminal evidence.

trace evidence Minute, nearly invisible evidence of a crime that would escape all but the most skilled investigators.

- ▼ **TestBank and MyTest.** These supplements represent a new standard in testing material. Whether you use the basic *TestBank* in the Instructor's Manual or generate questions electronically through *MyTest*, every question is linked to the text's learning objective, page number, and level of difficulty. This allows for quick reference in the text and an easy way to check the difficulty level and variety of your questions. *MyTest* can be accessed at www.PearsonMyTest.com.



Testbank: CrimPro Briefs

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- Chapter 3: Introduction to the Fourth Amendment
- Chapter 4: Searches and Arrests with Warrants
- Chapter 5: Searches and Arrests without Warrants
- Chapter 6: Stop and Frisk
 - Multiple Choice
 - True-False
 - Fill in the Blank
 - Matching
 - Essay
 - Critical Thinking
- Chapter 7: Special Needs and Regulatory Searches

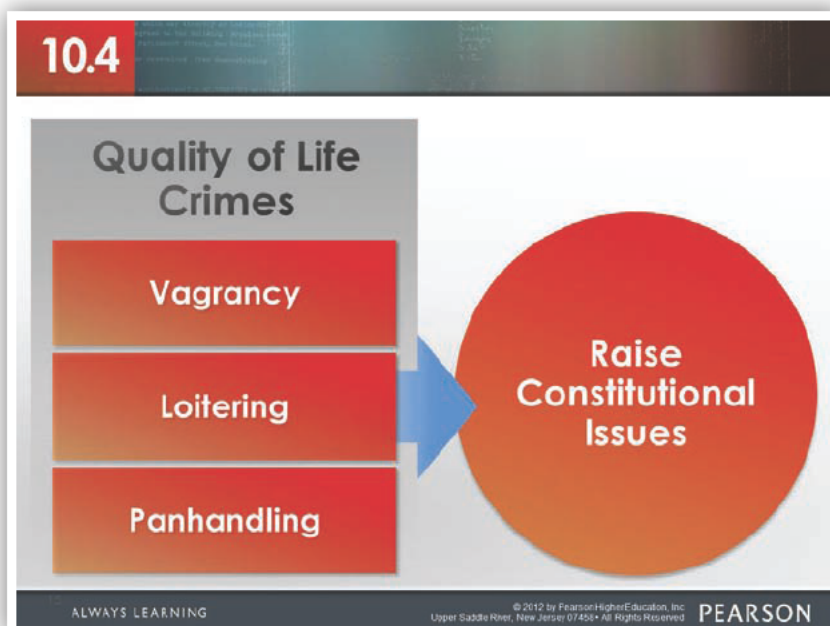
test 4 question(s) Save Download Close

Create Question Scramble Edit Header

- 1) Which standard of justification is necessary for stop and frisk activities?
 - a) Administrative justification
 - b) Proof beyond a reasonable doubt
 - ✓ c) Reasonable suspicion
 - d) Probable cause
- 2) The term “reasonable suspicion” is found nowhere in the Constitution.
 - ✓ a) True
 - b) False
- 3) A stop always precedes a frisk, but a stop does not automatically give a police officer permission to conduct a frisk.
 - ✓ a) True
 - b) False
- 4) Match each case with the correct expansion of the stop and frisk doctrine.

a) Vehicle stops and weapons searches of automobiles.	Delaware v. Prouse
b) Protective sweeps.	Maryland v. Buie
c) Plain touch and feel.	Minnesota v. Dickerson
d) Investigative detentions.	Davis v. Mississippi

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About the Author



Frank Schmalleger, Ph.D., is Distinguished Professor Emeritus at the University of North Carolina at Pembroke, where he taught criminal justice courses for 20 years and chaired the university's Department of Sociology, Social Work, and Criminal Justice for 16 of those years. In 1991 the university awarded him the title of Distinguished Professor, and the university named him Professor Emeritus in 2001.

Dr. Schmalleger holds degrees from the University of Notre Dame and Ohio State University, having earned both a master's (1970) and a doctorate in sociology (1974) with a special emphasis in criminology from Ohio State University.

As an adjunct professor with Webster University in St. Louis, Missouri, Schmalleger helped develop the university's graduate program in security administration and loss prevention. He taught courses in that curriculum for more than a decade. Schmalleger has also taught in the online graduate program of the New School for Social Research, helping to build the world's first electronic classrooms in support of distance learning through computer telecommunications. An avid Web user, Schmalleger is the creator of a number of award-winning websites, including one that supports this textbook.

Frank Schmalleger is the author of numerous articles and many books, including the widely used *Criminal Justice Today* (Pearson, 2013), *Criminology Today* (Pearson, 2012); *Criminal Law Today* (Pearson, 2013), and *The Definitive Guide to Criminal Justice and Criminology on the World Wide Web* (Pearson, 2009).

Schmalleger is also founding editor of the journal *Criminal Justice Studies*. He has served as editor for the Pearson series *Criminal Justice in the Twenty-First Century* and as imprint adviser for Greenwood Publishing Group's criminal justice reference series.

Schmalleger's philosophy of both teaching and writing can be summed up in these words: "In order to communicate knowledge, we must first catch, then hold, a person's interest—be it student, colleague, or policymaker. Our writing, our speaking, and our teaching must be relevant to the problems facing people today, and they must in some way help solve those problems."

“Justice is truth in action!”

—Benjamin Disraeli

“Injustice anywhere is a threat
to justice everywhere.”

—Martin Luther King, Jr.

What Is Criminal Justice?

Learning Objectives

After reading this chapter, you should be able to:

1. Summarize the history of crime in America and corresponding changes in the American criminal justice system. **3**
2. Describe the public-order (crime-control) and individual-rights (due-process) perspectives of criminal justice, concluding with how the criminal justice system balances the two perspectives. **5**
3. Explain the relationship of criminal justice to general concepts of equity and fairness. **8**
4. Describe the American criminal justice system in terms of its three major components and their respective functions. **9**
5. Describe the process of American criminal justice, including the stages of criminal case processing. **12**
6. Define due process of law, including where the American legal system guarantees due process. **12**
7. Describe the role of evidence-based practice in contemporary criminal justice. **15**
8. Explain how multiculturalism and diversity present challenges to and opportunities for the American system of criminal justice. **18**

“The rights guaranteed to criminal suspects . . . are fundamental political rights that protect all Americans from governmental abuse of power.”

—American Civil Liberties Union¹

“The Constitution is not a suicide pact.”

—Former Secretary of State Warren Christopher²

Introduction

Crime does more than expose the weakness in social relationships; it undermines the social order itself, by destroying the assumptions on which it is based.

—James Q. Wilson, UCLA

social order

The condition of a society characterized by social integration, consensus, smooth functioning, and lack of interpersonal and institutional conflict. Also, a lack of social disorganization.

social disorganization

A condition said to exist when a group is faced with social change, uneven development of culture, maladaptiveness, disharmony, conflict, and lack of consensus.

Five days after Hurricane Katrina made landfall near New Orleans in 2005, the *Washington Post* described the devastated metropolitan area as “a city of despair and lawlessness.”³ The *Wall Street Journal* ran headlines proclaiming that the city had “plunged into anarchy.”⁴ As the winds relented, looters ravaged stores, gunshots rang out, and armed gangs could be seen roaming the streets that hadn’t been flooded. Some looters used forklifts and construction equipment to bust through storm shutters and steel doors protecting gun shops, liquor stores, and pharmacies.⁵ The New Orleans Police Department, hamstrung by the absence of one-third of its 1,600 officers and the loss of critical communications channels and emergency equipment, struggled to keep control over its facilities. In one unflooded precinct, officers used an armored personnel carrier to survey the chaos.⁶ Officers from another precinct were forced to barricade themselves in their three-story administrative center, renaming it Fort Apache after a film in which a police station is attacked. “You have to understand,” said Juan Lopez, one of the officers who took refuge in the precinct house, “New Orleans was a violent place before the hurricane. After the hurricane, the city just let loose.”⁷

The storm set into motion a number of events that are still sending shock waves throughout American society. The physical damage done by the hurricane, estimated at billions of dollars, was made worse by the massive social disorder that followed. Thousands of displaced people left their homes—with many never expected to return. Law enforcement and assistance agencies throughout the region suffered serious disruptions in their ability to provide services. Some officers walked off the job, and citizens were left to fend for themselves until thousands of National Guard troops armed with automatic weapons arrived to restore order in the wind- and flood-ravaged area.

The Katrina disaster, which created opportunities for those bent on criminal activity, illustrated the tenuous nature of **social order**. The **social disorganization** that followed Katrina continued long after the storm and involved a myriad of criminal offenses—including thousands of people arrested for defrauding the Federal Emergency Management Agency (FEMA), the government agency responsible for helping out after a disaster. FEMA fraud was so widespread that reports showed the number of households receiving FEMA emergency checks in four Louisiana parishes exceeded the number of households that existed there before the storm hit.⁸ Almost 360,000 households applied for FEMA’s Expedited Assistance payments in Orleans Parish alone—although the area had only 182,000 homes before Katrina. In 2012, the federal Disaster Fraud Task Force (formerly known as the Hurricane Katrina Fraud Task Force) released a report on the crimes and subsequent prosecutions resulting from Katrina-related fraud. The goal of the task force, which continues to function today, is “to stop people who seek to illegally take for themselves the money that is intended for the victims of the disasters and the rebuilding of the affected areas.” Read the complete task force report at <http://justicestudies.com/katrina2012.pdf>.⁹

A very different kind of criminal event thrust itself on American society and our justice system with the September 11, 2001, terrorist attacks that targeted New York City’s World Trade Center and the Pentagon. Those attacks, including one on an airliner that crashed in the Pennsylvania countryside, left nearly 3,000 people dead and caused billions of dollars in property damage. They have since been classified as the most destructive criminal activity ever perpetrated on U.S. soil. The resulting “war on terrorism” changed the face of world politics and ushered in a new era in American society. Before the attacks, most Americans lived relatively secure lives, largely unfettered by fear of random personal attack. Following September 11, however, a heated debate has taken place between those wanting to enforce powerful crime-prevention and security measures and others seeking to preserve the individual rights and freedoms that have long been



▲ New Orleans business owner Bob Rue standing in front of his rug store in the aftermath of Hurricane Katrina. His hastily created sign warns potential looters to stay away. Some say that the central purpose of the criminal justice system is the maintenance of social order. Others say that the justice system must respect the rights of those it processes. Are the two perspectives mutually exclusive? *Charlie Riedel/AP Wide World Photos*



◀ Freedom Tower under construction at the World Trade Center site in New York City. When completed, the tower will stand 1,776 feet tall and be surrounded by several other buildings, and a memorial to the nearly 3,000 people who were killed in the terrorist attacks that demolished the Twin Towers in 2001. How did those attacks change the American justice system?
 Courtesy of The Justice Research Association

crime
 Conduct in violation of the criminal laws of a state, the federal government, or a local jurisdiction, for which there is no legally acceptable justification or excuse.¹

Lecture Note Provide a brief history of crime in America.

characteristic of American life. This issue, which has continued to feed TV talk shows and newspaper editorials nationwide, asks Americans to determine which rights, freedoms, and conveniences (if any) they are willing to sacrifice to increase personal and public safety. It also anticipates the theme on which this book is based, which is discussed at length later in this chapter.

Regardless of your personal position in the ongoing debate between freedom and safety, it is important to recognize that terrorism is a potentially horrendous **crime**. Many states and the federal government have statutes outlawing terrorism, although terrorism itself can involve many other kinds of crimes. In the case of the World Trade Center and Pentagon attacks, for example, the crimes committed included murder, kidnapping, hijacking, grand theft, felonious assault, battery, conspiracy, and arson.

A Brief History of Crime in America

What we call *criminal activity* has undoubtedly been with us since the dawn of history, and crime control has long been a primary concern of politicians and government leaders worldwide. Still, the American experience with crime during the last half century has been especially influential in shaping the criminal justice system of today (Figure 1–1). In this country, crime waves have come and gone, including an 1850–1880 crime epidemic that was apparently related to social upheaval caused by large-scale immigration and the Civil War.¹⁰ A spurt of widespread organized criminal activity was associated with the Prohibition years of the early twentieth century. Following World War II, however, American crime rates remained relatively stable until the 1960s.

1 Summarize the history of crime in America and corresponding changes in the American criminal justice system.

The 1960s and 1970s saw a burgeoning concern for the rights of ethnic and racial minorities, women, people with physical and mental challenges, and many other groups. The civil rights movement of the period emphasized equality of opportunity and respect for individuals, regardless of race, color, creed, gender, or personal attributes. As new laws were passed and suits filed, court involvement in the movement grew. Soon a plethora of hard-won

FIGURE 1–1
Milestones in Crime History

1850–1880 A crime epidemic spurred by social upheaval brought on by large-scale immigration and the Civil War.
1920–1933 Prohibition spurs the growth of organized crime.

Following World War II, American crime rates remained relatively stable until the 1960s.

1960–1970 The civil rights movement of the period emphasized equality of opportunity and respect for individuals regardless of race, color, creed, gender, or personal attributes. This period also saw a dramatic increase in reported criminal activity.



1970s Reports of crimes such as murder, rape, and assault increased considerably.

1980s By the mid-1980s the dramatic increase in sale and use of illicit drugs led to increased crime. Large cities became havens for drug gangs and cities experienced dramatic declines in property values and quality of life. President Reagan declared a “war on drugs.”

1992 The videotaped beating of Rodney King, an African American, by Los Angeles-area police officers was seen as an example of the abuse of police power.

By the late **1990s** the public perception was that crime rates were growing and that many offenders went unpunished. This led to a growing emphasis on responsibility and punishment and the development of a “get tough on crime” era.





2001 A series of terrorist attacks on New York City, Washington, D.C., and elsewhere changed the focus of law enforcement to a proactive and more global approach.

2001 USA PATRIOT Act dramatically increases the investigatory authority of federal, state, and local police agencies.

The incidence of personal crime declined throughout the 1990s.

2009 Bernard Madoff plead guilty to the largest Ponzi scheme in history. The crimes of Madoff, and widespread suspicions about the activities of Wall Street financiers, led to a number of white-collar crime investigations. White-collar crime came into focus as a serious threat to the American way of life.



2011 FBI most-wanted terrorist Osama Bin Laden was killed by U.S. special operations forces in Pakistan, leading to fears of a renewed terrorist onslaught on American targets throughout the world.



2012–2013 Epidemic of mass shootings and random violence sweeps public venues across the U.S.

Photo sources (from top): Courtesy of the Library of Congress; Darryl Jacobson / Everett Collection / Superstock; Darryl Jacobson / Superstock; Steven Hirsch / Newscom; NetPics / Alamy

Individual rights

The rights guaranteed to all members of American society by the U.S. Constitution (especially those rights found in the first ten amendments to the Constitution, known as the *Bill of Rights*). These rights are particularly important to criminal defendants facing formal processing by the criminal justice system.

Thematic Question Do you identify more with what the book calls the individual-rights perspective or the public-order perspective? What experiences have you had that might explain your affinity for that perspective?

individual rights and prerogatives, based on the U.S. Constitution, the Bill of Rights, and new federal and state legislation, were recognized and guaranteed. By the 1980s, the civil rights movement had profoundly affected all areas of social life—from education and employment to the activities of the criminal justice system.

This emphasis on **individual rights** was accompanied by a dramatic increase in reported criminal activity. Although some researchers doubted the accuracy of official accounts, reports by the Federal Bureau of Investigation (FBI) of “traditional” crimes such as murder, rape, and assault increased considerably during the 1970s and into the 1980s. Many theories were advanced to explain this leap in observed criminality. Some analysts of American culture, for example, suggested that the combination of newfound freedoms and long-pent-up hostilities of the socially and economically deprived worked to produce social disorganization, which in turn increased criminality.

By the mid-1980s, the dramatic increase in the sale and use of illicit drugs threatened the foundation of American society. Cocaine, and later laboratory-processed “crack,” spread to every corner of America. Large cities became havens for drug gangs, and many inner-city areas were all but abandoned to highly armed and well-financed drug racketeers. Cities experienced dramatic declines in property values, and residents wrestled with an eroding quality of life.

By the close of the 1980s, neighborhoods and towns were fighting for their communal lives. Huge rents had been torn in the national social fabric, and the American way of life, long taken for granted, was under the gun. Traditional values appeared in danger of going up in smoke along with the “crack” being consumed openly in some parks and resorts. Looking for a way to stem the tide of increased criminality, many took up the call for “law and order.” In response, President Ronald Reagan created a cabinet-level “drug czar” position to coordinate the “war on drugs.” Careful thought was given at the highest levels to using the military to patrol the sea-lanes and air corridors through which many of the illegal drugs entered the country. President George H. W. Bush, who followed Reagan into office, quickly embraced and expanded the government’s antidrug efforts.

A decade later, a few spectacular crimes that received widespread coverage in the news media fostered a sense among the American public that crime in the United States was out of hand and that strict new measures were needed to combat it. One such crime was the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City by antigovernment extremists. Another was the 1999 Columbine High School massacre in Colorado that left 12 students and one teacher dead.¹¹

The public’s perception that crime rates were growing, coupled with a belief that offenders frequently went unpunished or received only a judicial slap on the wrist, led to a burgeoning emphasis on responsibility and punishment. By the late 1990s, a newfound emphasis on individual accountability began to blossom among an American public fed up with crime and fearful of its own victimization. Growing calls for enhanced responsibility quickly began to replace the previous emphasis on individual rights. As a juggernaut of conservative opinion made itself felt on the political scene, Senator Phil Gramm of Texas observed that the public wants to “grab violent criminals by the throat, put them in prison [and] stop building prisons like Holiday Inns.”¹²

Then, in an event that changed the course of our society, public tragedy became forever joined with private victimization in our collective consciousness after a series of highly destructive and well-coordinated terrorist attacks on New York City and Washington, D.C., on September 11, 2001. Those attacks resulted in the collapse and total destruction of the twin 110-story towers of the World Trade Center and a devastating explosion at the Pentagon. Thousands of people perished, and many were injured. Although law enforcement and security agencies were unable to prevent the September 11 attacks, many have since moved from a reactive to a proactive posture in the fight against terrorism—a change that is discussed in more detail in Chapter 6.

You’re looking now not only at a rescue operation but [at] a gigantic crime scene.

—ABC newscaster, on the World Trade Center site a few days after the 9/11 attacks¹³

The September 11 attacks also made clear that adequate law enforcement involves a global effort at controlling crime and reducing the risk of injury and loss to law-abiding people both at home and abroad. The attacks showed that criminal incidents that take place on the other side of the globe can impact those of us living in the United States, and they illustrated how the acquisition of skills needed to understand diverse cultures can help in the fight against crime and terrorism. As Chapter 2 points out, terrorism is a criminal act, and preventing terrorism and investigating terrorist incidents after they occur are highly important roles for local, state, and federal law enforcement agencies.

A different kind of offending, corporate and white-collar crime, took center stage in 2002 and 2003 as Congress stiffened penalties for unscrupulous business executives who knowingly falsify their company's financial reports.¹³ The changes came amidst declining stock market values, shaken investor confidence, and threats to the viability of employee pension plans in the wake of a corporate crime wave involving criminal activities that had been planned and undertaken by executives at a number of leading corporations. In an effort to restore order to American financial markets, President George W. Bush signed the Sarbanes-Oxley Act on July 30, 2002.¹⁴ The law, which has been called “the single most important piece of legislation affecting corporate governance, financial disclosure and the practice of public accounting since the US securities laws of the early 1930s,”¹⁵ is intended to deter corporate fraud and to hold business executives accountable for their actions.

Today, white-collar crime continues to be a focus of federal prosecutors. In 2012, for example, Texas billionaire R. Allen Stanford, 61, was convicted by a federal jury in a \$7 billion Ponzi scheme that he ran for almost 20 years.¹⁶ Prosecutors convinced the jury that Stanford illegally funneled money from investors in his financial services firm to his personal accounts, allowing him to pay for an extravagant lifestyle including private jets, yachts, and a number of mansions for himself and his family. Following conviction, Stanford received a sentence of 110 years in prison.

Similarly, in a 2009 story that most readers will remember, investment fund manager Bernard Madoff pleaded guilty to operating a Ponzi scheme that defrauded investors out of as much as \$50 billion.¹⁷ Madoff pleaded guilty to 11 felony counts, including securities fraud, mail fraud, wire fraud, money laundering, and perjury. Following the plea, he was sentenced to serve 150 years in federal prison—three times as long as federal probation officers had recommended.¹⁸ White-collar crime is discussed in more detail in Chapter 2. For a detailed look at crimes that are currently in the news, visit <http://www.trutv.com/library/crime>.

The Theme of This Book

This book examines the American system of criminal justice and the agencies and processes that constitute it. It builds on a theme that is especially valuable for studying criminal justice today: *individual rights versus public order*. This theme

draws on historical developments that have shaped our legal system and our understandings of crime and justice. It is one of the primary determinants of the nature of contemporary criminal justice—including criminal law, police practice, sentencing, and corrections.

A strong emphasis on individual rights rose to the forefront of American social thought during the 1960s and 1970s, a period known as the *civil rights era*. The civil rights era led to the recognition of fundamental personal rights that had previously been denied illegally to many people on the basis of race, ethnicity, gender, sexual preference, or disability. The civil rights movement soon expanded to include the rights of many other groups, including criminal suspects, parolees and probationers, trial participants, prison and jail inmates, and victims. As the emphasis on civil rights grew, new laws and court decisions broadened the rights available to many.

The treatment of criminal suspects was afforded special attention by those who argued that the purpose of any civilized society should be to secure rights and freedoms for each

Class Activity Have students collect clippings and stories from newspapers, magazines, and the Web and do a short report or presentation noting which criminal justice-related topics (such as individual rights, social control, policing, terrorism, and violent crime) receive the most coverage. A useful website for criminal justice-specific current events is <http://thecrimereport.org>.

Thematic Question What are the relative merits of the individual-rights perspective, and what are the merits of the public-order point of view? How can the goals of both perspectives be balanced in contemporary society?

Follow the author's tweets about the latest crime and justice news @schmallegger.

Lecture Note Identify the theme on which this textbook builds, and highlight the differences between the individual-rights and public-order perspectives.



▲ Ponzi schemer Bernard Madoff being escorted by police and photographed by the media as he leaves a U.S. federal court in New York after a hearing. Madoff, whose financial crimes may have cost investors as much as \$50 billion, was sentenced to 150 years in prison in 2009. Should corporate criminals be treated differently from other offenders? Reuters/Lucas Jackson/Landov

2

Describe the public-order (crime-control) and individual-rights (due-process) perspectives of criminal justice, concluding with how the criminal justice system balances the two perspectives.



Class Activity Poll students to determine their identification with either the individual-rights perspective or the public-order perspective. After polling is complete, assign students to presentation groups by asking those who more closely identify with the public-order perspective to defend individual rights, and vice versa. Such role reversal can be interesting in its own right, but it may also serve to broaden students' appreciation for the values of others.

Thematic Question Do you see a trend in our society in favor of individual rights or public-order interests? What recent examples support your opinion?

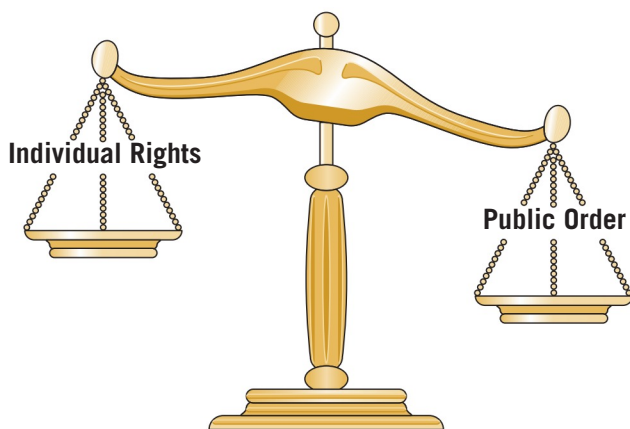


FIGURE 1–2
The Theme of This Book

of its citizens—including those suspected and convicted of crimes. Rights advocates feared unnecessarily restrictive government action and viewed it as an assault on basic human dignity and individual liberty. They believed that at times it was necessary to sacrifice some degree of public safety and predictability to guarantee basic freedoms. Hence criminal rights activists demanded a justice system that limits police powers and that holds justice agencies accountable to the highest procedural standards.

During the 1960s and 1970s, the dominant philosophy in American criminal justice focused on guaranteeing the rights of criminal defendants while seeking to understand the root causes of crime and violence. The past 25 years, however, have witnessed increased interest in an ordered society, in public safety, and in the rights of crime victims. This change in attitudes was likely brought about by national frustration with the perceived inability of our society and its justice system to prevent crimes and to consistently hold offenders to heartfelt standards of right and wrong. Increased conservatism in the public-policy arena was given new life by the September 11, 2001, terrorist attacks and by widely publicized instances of sexual offenses targeting children. It continues to be sustained by the many stories of violent victimization that seem to be the current mainstay of the American media.

Today, public perspectives have largely shifted away from seeing the criminal as an unfortunate victim of poor social and personal circumstances who is inherently protected by fundamental human and constitutional rights to seeing him or her as a dangerous social predator who usurps the rights and privileges of law-abiding citizens. Reflecting the “get-tough-on-crime” attitudes of today, many Americans demand to know how offenders can better be held accountable for violating the criminal law. In late 2010, for example, California state senators unanimously passed Chelsea’s Law, a bill intended to increase prison sentences and extend parole terms for offenders who commit sex crimes against minors. The bill, named after 17-year-old Chelsea King, who was raped and murdered by a convicted sex offender earlier in 2010, was signed into law by the state’s governor soon after it passed the legislature.¹⁹ Even in an era of difficult budgetary challenges, numerous states, like California, are continuing to extend prison sentences for sex offenders, restrict where released sex offenders can live, and improve public notification of their whereabouts.²⁰

As state budgets constrict, the tension between individual rights and social responsibility still forms the basis for most policymaking activity in the criminal justice arena. Those who fight for individual rights continue to carry the banner of civil and criminal rights for the accused and the convicted, while public-order activists proclaim the rights of the victimized and call for an increased emphasis on social responsibility and criminal punishment for convicted criminals. In keeping with these realizations, the theme of this book can be stated as follows:

There is widespread recognition in contemporary society of the need to balance (1) the freedoms and privileges of our nation’s citizens and the respect accorded the rights of individuals faced with criminal prosecution against (2) the valid interests that society has in preventing future crimes, in maintaining public safety, and in reducing the harm caused by criminal activity. While the personal freedoms guaranteed to law-abiding citizens as well as to criminal suspects by the Constitution, as interpreted by the U.S. Supreme Court, must be closely guarded, the urgent social needs of communities for controlling unacceptable behavior and protecting law-abiding citizens from harm must be recognized. Still to be adequately addressed are the needs and interests of victims and the fear of crime and personal victimization often prevalent in the minds of many law-abiding citizens.

Figure 1–2 represents our theme and shows that most people today who intelligently consider the criminal justice system assume one of two viewpoints. We will refer to those who seek to protect personal freedoms and civil rights within society, and especially

Freedom or Safety? You Decide. Clarence Thomas Says: “Freedom Means Responsibility”

In 2009, U.S. Supreme Court Justice Clarence Thomas spoke to a group of high school essay contest winners in a Washington, D.C., hotel ballroom. Thomas used the occasion, which was dedicated to our nation’s Bill of Rights, to point out the importance of obligations as well as rights. “Today there is much focus on our rights,” said Thomas. “Indeed, I think there is a proliferation of rights.” But then he went on to say, “I am often surprised by the virtual nobility that seems to be accorded those with grievances. Shouldn’t there at least be equal time for our Bill of Obligations and our Bill of Responsibilities?”

The challenge for the criminal justice system today, it seems, is to balance individual rights and personal freedoms with social control and respect for legitimate authority. Years ago, during the height of what was then a powerful movement to win back control of our nation’s cities and to rein in skyrocketing crime rates, the *New York Post* sponsored a conference on crime and civil rights. The keynote speaker at that conference was the mayor of New York, Rudolph W. Giuliani. In his speech, Giuliani, who sought the Republican nomination as a presidential candidate in 2008, identified the tension between personal freedoms and individual responsibilities as the crux of the crime problem then facing his city and the nation. We mistakenly look to government and elected officials, Giuliani said, to assume

responsibility for solving the problem of crime when, instead, each individual citizen must become accountable for fixing what is wrong with our society. “We only see the oppressive side of authority. . . . What we don’t see is that freedom is not a concept in which people can do anything they want, be anything they can be. Freedom is about authority. Freedom is about the willingness of every single human being to cede to lawful authority a great deal of discretion about what you do.”

YOU DECIDE

How can we, as suggested by Justice Thomas, achieve a balance of rights and obligations in American society? What did Giuliani mean when he said, “What we don’t see is that freedom is not a concept in which people can do anything they want, be anything they can be”? Is it possible to balance individual rights and personal freedoms with social control and respect for legitimate authority?

References: Adam Liptak, “Reticent Justice Opens up to a Group of Students,” *New York Times*, April 13, 2009, <http://www.nytimes.com/2009/04/14/us/14bar.html> (accessed June 2, 2012); and Philip Taylor, “Civil Libertarians: Giuliani’s Efforts Threaten First Amendment,” *Freedom Forum Online*, <http://www.freedomforum.org>.

within the criminal justice process, as **individual-rights advocates**. Those who suggest that, under certain circumstances involving criminal threats to public safety, the interests of society (especially crime control and social order) should take precedence over individual rights will be called **public-order advocates**. Recently, retired U.S. Supreme Court Justice Sandra Day O’Connor summed up the differences between these two perspectives by asking, “At what point does the cost to civil liberties from legislation designed to prevent terrorism [and crime] outweigh the added security that that legislation provides?”²¹ In this book, we seek to look at ways in which the individual-rights and public-order perspectives can be balanced to serve both sets of needs. Hence you will find our theme discussed throughout this text and within “Freedom or Safety?” boxes.

Balancing the concern for individual rights with the need for public order through the administration of criminal justice is the theme of this book.

individual-rights advocate

One who seeks to protect personal freedoms within the process of criminal justice.

public-order advocate

One who believes that under certain circumstances involving a criminal threat to public safety, the interests of society should take precedence over individual rights.



◀ Michael Jackson fans gathering outside the courthouse where Jackson’s physician, Conrad Murray, appeared on February 8, 2010. Convicted in 2011 of involuntary manslaughter in the singer’s death, Murray was sentenced to four years in prison. What does the word *justice* mean to you? Was justice done in this case?

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Lecture Note Explain that criminal justice is the study of how fairness is achieved in criminal courts. Contrast formal criminal justice case processing with alternatives, such as vigilante justice and kangaroo courts. Consider other ways of achieving justice, and examine the meaning of justice itself.

Lecture Note Explain the relationship of criminal justice to fundamental notion of fairness and to the wider notions of equity and morality.

justice

The principle of fairness; the ideal of moral equity.

social justice

An ideal that embraces all aspects of civilized life and that is linked to fundamental notions of fairness and to cultural beliefs about right and wrong.

civil justice

The civil law, the law of civil procedure, and the array of procedures and activities having to do with private rights and remedies sought by civil action. Civil justice cannot be separated from social justice because the justice enacted in our nation's civil courts reflects basic American understandings of right and wrong.

criminal justice

In the strictest sense, the criminal (penal) law, the law of criminal procedure, and the array of procedures and activities having to do with the enforcement of this body of law. Criminal justice cannot be separated from social justice because the justice enacted in our nation's criminal courts reflects basic American understandings of right and wrong.

administration of justice

The performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.^{iv}

Class Activity Ask representatives from community criminal justice agencies to visit your class, either in person or virtually through computer conferencing. Create a master schedule for speakers, linking it to the topics covered in the class syllabus and in the textbook.

Lecture Note Describe the two models applicable to the study of criminal justice: the consensus model and the conflict model.

Lecture Note Explain that the consensus model of criminal justice envisions the components of the criminal justice system as functioning together to achieve the goal of justice.

Lecture Note Explain that the conflict model of criminal justice envisions the components of the criminal justice system as serving their own interests and competing with one another over scarce resources, public recognition, and various other forms of accomplishment.

Criminal Justice and Basic Fairness

On Election Day in November 2008, as the final votes were being counted, President-Elect Barack H. Obama gave an inspiring victory speech addressed to the nation and the world.

3

Explain the relationship of criminal justice to general concepts of equity and fairness.

He said, “To all those who have wondered if America’s beacon still burns as bright—tonight we proved once more that the true

strength of our nation comes not from the might of our arms or the scale of our wealth, but from the enduring power of our ideals: democracy, liberty, opportunity, and unyielding hope.” The president-elect concluded that night’s remarks with an enduring phrase, telling listeners that “the arc of the moral universe is long, but it bends toward justice.” The phrase, a favorite of Obama’s, was adapted from remarks that Martin Luther King, Jr., made before the Southern Christian Leadership Conference in 1967.²²

There is no denying that the word *justice* is powerful, and—at the time—the president’s choice of words spoke to all Americans. The reality, however, is that *justice* is an elusive term. Although most listeners came away inspired that night, few who heard the president’s speech knew exactly what justice might mean and what form it might eventually take. Even to those living within the same society, *justice* means different things. And just as *justice* can be an ambiguous term for politicians, it is not always clear how justice can be achieved in the criminal justice system. For example, is “justice for all” a reasonable expectation of today’s—or tomorrow’s—system of criminal justice? The answer is unclear because individual interests and social needs often diverge. From the perspective of a society or an entire nation, justice can look very different than it does from the perspective of an individual or a small group of people. Because of this dilemma, we now turn our attention to the nature of justice.

British philosopher and statesman Benjamin Disraeli (1804–1881) defined **justice** as “truth in action.” A popular dictionary defines it as “the principle of moral rightness, or conformity to truth.”²³ **Social justice** is a concept that embraces all aspects of civilized life. It is linked to notions of fairness and to cultural beliefs about right and wrong. Questions of social justice can arise about relationships between individuals, between parties (such as corporations and agencies of government), between the rich and the poor, between the sexes, between ethnic groups and minorities—between social connections of all sorts. In the abstract, the concept of social justice embodies the highest personal and cultural ideals.

Civil justice, one component of social justice, concerns itself with fairness in relationships between citizens, government agencies, and businesses in private matters, such as those involving contractual obligations, business dealings, hiring, and equality of treatment. **Criminal justice**, on the other hand, refers to the aspects of social justice that concern violations of the criminal law. As mentioned earlier, community interests in the criminal justice sphere demand the apprehension and punishment of law violators. At the same time, criminal justice ideals extend to the protection of the innocent, the fair treatment of offenders, and fair play by the agencies of law enforcement, including courts and correctional institutions.

Criminal justice, ideally speaking, is “truth in action” within the process that we call the **administration of justice**. It is therefore vital to remember that justice, in the truest and most satisfying sense of the word, is the ultimate goal of criminal justice—and of the day-to-day practices and challenges that characterize the American criminal justice system. Reality, unfortunately, typically falls short of the ideal and is severely complicated by the fact that justice seems to wear different guises when viewed from diverse vantage points. To some people, the criminal justice system and criminal justice agencies often seem biased in favor of the powerful. The laws they enforce seem to emanate more from well-financed, organized, and vocal interest groups than they do from any idealized sense of social justice. As a consequence, disenfranchised groups, those who do not feel as though they share in the

The arc of the moral universe is long, but it bends towards justice.

—Martin Luther King, Jr.
(1929–1968)

political and economic power of society, are often wary of the agencies of justice, seeing them more as enemies than as benefactors.

On the other hand, justice practitioners, including police officers, prosecutors, judges, and corrections officials, frequently complain that their efforts to uphold the law garner unfair public criticism. The realities of law enforcement and of “doing justice,” they say, are often overlooked by critics of the system who have little experience in dealing with offenders and victims. We must recognize, practitioners often tell us, that those accused of violating the criminal law face an elaborate process built around numerous legislative, administrative, and organizational concerns. Viewed realistically, although the criminal justice process can be fine-tuned to take into consideration the interests of ever-larger numbers of people, it rarely pleases everyone. The outcome of the criminal justice process in any particular case is a social product, and like any product that is the result of group effort, it must inevitably be a patchwork quilt of human emotions, reasoning, and concerns.

Whichever side we choose in the ongoing debate over the nature and quality of criminal justice in America, it is vital that we recognize the plethora of pragmatic issues involved in the administration of justice while also keeping a clear focus on the justice ideal.²⁴ Was justice done, for example, in the 2005 criminal trial of pop music superstar Michael Jackson on charges of child molestation, or after Jackson’s death in the 2011 trial of his personal physician, Conrad Murray? Has justice been served in the case of Casey Anthony, who authorities say killed her young daughter (the case is discussed in more detail in Chapter 8)? Similarly, we might ask whether justice was done in the arrest and lengthy detention of hundreds of Muslims after September 11, 2001—even though most were later released when no evidence could be found linking them to any crime.²⁵ While answers to such questions may reveal a great deal about the American criminal justice system, they also have much to say about the perspectives of those who provide them.

American Criminal Justice: System and Functions

The Consensus Model

We have been discussing a **criminal justice system**²⁶ consisting of the component agencies of police, courts, and corrections. Each of these components can, in turn, be described in terms of its functions and purpose (Figure 1–3).

4

Describe the American criminal justice system in terms of its three major components and their respective functions.

The systems perspective on criminal justice is characterized primarily by its assumption that the various parts of the justice system work together by design to achieve the wider purpose we have been calling *justice*. Hence the systems perspective on criminal justice generally encompasses a point of view called the **consensus model**. The consensus model assumes that each of the component parts of the criminal justice system strives toward a common goal and that the movement of cases and people through the system is smooth due to cooperation between the various components of the system.

The systems model of criminal justice is more an analytic tool than a reality, however. An analytic model, whether in the hard sciences or in the social sciences, is simply a convention chosen for its explanatory power. By explaining the actions of criminal justice officials—such as arrest, prosecution, and sentencing—as though they were systematically related, we are able to envision a fairly smooth and predictable process.

The systems model has been criticized for implying a greater level of organization and cooperation among the various agencies of justice than actually exists. The word *system* calls to mind a near-perfect form of social organization. The modern mind associates the idea of a system with machine-like precision in which the problems of wasted effort, redundancy, and conflicting actions are quickly corrected. In practice, the justice system has nowhere near this level of perfection, and the systems model is admittedly an oversimplification. Conflicts among and within agencies are rife; individual actors within the system

Thematic Question Which model, to your mind, best describes the American system of criminal justice: the consensus model or the conflict model? Why?

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Lecture Note Explain the structure of the American criminal justice system in terms of its major components and the functions they serve.

criminal justice system

The aggregate of all operating and administrative or technical support agencies that perform criminal justice functions. The basic divisions of the operational aspects of criminal justice are law enforcement, courts, and corrections.

consensus model

A criminal justice perspective that assumes that the system’s components work together harmoniously to achieve the social product we call *justice*.