



THIRTEENTH EDITION

AMERICA'S COURTS

AND THE CRIMINAL JUSTICE SYSTEM

David W. Neubauer | Henry F. Fradella



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America's Courts and the Criminal Justice System, Thirteenth Edition
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Cover Image: Brocreative/Shutterstock.com

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Library of Congress Control Number: 2017953978

Student Edition:
ISBN: 978-1-337-55789-4

Loose-leaf Edition:
ISBN: 978-1-337-56043-6

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Printed in the United States of America
Print Number: 01 Print Year: 2017

Dedication

From David
To Jeff, Kristen, and Amy

From Hank
To the great mentors I have had, for
their friendship and guidance:
Henry F. Dressel, Esq.,
Robert L.K. Richardson, Ph.D.,
The Honorable Stephen M. McNamee,
and
John R. Hepburn, Ph.D.

About the Authors



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Preface

America's *Courts and the Criminal Justice System*, Thirteenth Edition, examines the history, traditions, and philosophy underlying our system of justice as it is played out in the criminal court. In a complex, sometimes contradictory, and often fragmented process, defendants are declared innocent or found guilty, and the guilty are fined, placed on probation, or sentenced to a period of incarceration. This book is about the defendants caught up in the process: the three-time losers; the scared, young, first-time offenders; and the business executives who are before the court to answer an indictment. But most of all, this book focuses on the prosecutors, judges, defense attorneys, and jurors who are involved in the daily decisions about guilt or innocence, probation or prison.

The impact of these decisions on crime and criminals is the subject of widespread controversy. Concern over how the courts handle criminal cases has been a staple of American political rhetoric for decades. The nature of this public debate and the solutions proposed to correct the problems are integral parts of this book. To be sure, the past few decades have witnessed significant deep-seated changes and readjustments in the criminal justice system—given all the public posturing, one would hardly expect less.

This book is written for undergraduate courses that deal with the criminal courts in the United States. Such courses (or parts of courses) are taught in various departments: criminal justice, criminology, administration of justice, political science, sociology, psychology, and social welfare. This book highlights not only the pivotal role of the criminal courts within the criminal justice system but also the courts' importance and impact on society as a whole.

America's Courts and the Criminal Justice System, Thirteenth Edition, focuses on the dynamics of the courthouse. Thus, it differs from casebooks, which use appellate court decisions to highlight the history, structure, and philosophy of courts. Although these are important matters, casebooks often project

a rather sterile image of courthouse justice and omit what courts do in practice, how they do it, and, most important, why they do it.

This book's emphasis on the dynamics of courthouse justice grows out of our own research. During our professional careers, we have spent considerable time in state and federal courts in all parts of the nation. One of us worked in a federal courthouse; the other has conducted years of field research, interviewing numerous judges, jurors, prosecutors, defense attorneys, probation officers, jailers, police officers, and defendants. We have observed these officials in action and discussed with them their problems and their views of possible solutions. By the luck of the draw, one of us has also served on juries in state and federal court, while the other has appeared in court both as a lawyer and as an expert witness. Throughout this book, we have tried to convey to the reader the sense of being in the courthouse.

Central Themes

Law on the Books

The starting point of this text is to provide readers with a working knowledge of the major structures and basic legal concepts that underlie the criminal courts. In deciding guilt or innocence and determining the appropriate punishment, the courts apply the criminal law through a complicated process termed "criminal procedure." The structure of the courts, the nature of the criminal law they apply, and the procedures followed all have important consequences for how the courts dispense justice.

But to understand the legal system, one needs to know more than the formal rules. Also necessary is an understanding of the assumptions underlying these rules, the history of how they evolved, and the goals they seek to achieve. A discussion of the assumptions, history, and goals makes clear that America's criminal justice process is not monolithic

but consists of a number of separate and sometimes competing units. It also points out conflicts over the goals the criminal courts are expected to achieve.

Law in Action

Many books leave the false impression that an understanding of the formal law and major structures of the court is all that one needs to know about the criminal courts. This kind of analysis provides only a limited view of how the courts administer justice. The law is not self-executing. It is a dynamic process of applying abstract rules to concrete situations.

In making decisions about charges to be filed, the amount of bail to be required, and the sentence a convicted person will receive, judges, prosecutors, and defense attorneys must make choices for which the formal law provides few precise guidelines. Thus, the second theme of this book is law in action, which emphasizes the dynamics of the criminal court process.

An examination of law in action reveals a gap between how the law is supposed to operate and how it is actually applied. For example, the law in theory suggests that the guilt of defendants should be decided by a jury trial. In practice, however, trials are rare. Most defendants plead guilty without a trial. Asking why there is a gap between the law on the books and the law in action is a big step toward understanding the dynamics of courthouse justice.

Law in Controversy

No treatment of the criminal courts would be complete without a discussion of the problems they are confronting. Are the courts too slow? Are judges too soft in sentencing? Does the criminal court process discriminate against the poor? These are just a few of the questions about the operations of the criminal courts that this book will consider. In turn, many organizations, groups, and individuals have probed the problems facing the criminal courts and proposed reforms. The third theme of this book is to discuss and analyze the controversies surrounding courthouse justice and to analyze the reforms that have been suggested for what ails the courts. Not everyone agrees on the types of

changes needed. Some argue that certain reforms will produce greater difficulties without solving the original problems. This book examines competing perspectives on the changes and reforms that are being proposed.

Key Features

Case Close-Up

Each chapter highlights an important court decision that has affected our nation's criminal justice system. Some, like *Miranda* and *Gideon*, are familiar names. Others are less well known. But each highlights the dynamic nature of courts in the United States.

Courts and Controversy

These boxed features provide multiple perspectives on the topics discussed in the chapter. To better focus on the wide-ranging debate surrounding the criminal courts in the United States, these controversies have been given an expanded subhead. Thus, throughout the book, these features will discuss controversies centering on judicial administration, crime reduction, gender equity, racial discrimination, and economic inequality.

New to This Edition

Writing the Thirteenth Edition was gratifying and stimulating. It was gratifying to learn from peer-reviewers that numerous colleagues in the professoriate and their students have found previous editions of the book useful. It was stimulating because it involved closely examining recent changes in both scholarship and public dialogue. The Thirteenth Edition offers a current perspective on a continually evolving subject: the criminal court process.

We significantly reorganized the book for the Thirteenth Edition. Notably, the 17 chapters in the past few editions of the book have been condensed so that the Thirteenth Edition contains 15 chapters. This, in turn, should allow instructors to adapt the

book more easily for use in traditional 15-week semesters. To accomplish this, (1) the first two chapters in earlier editions have been condensed into a single introductory chapter that provides an overview of both courts and law in the United States; and (2) the two chapters on sentencing in earlier editions have been combined into a single chapter.

We have added several new topics in the Thirteenth Edition. We highlight questions and concerns regarding racial justice in police–citizen interactions, prosecutorial charging, jury deliberations, and criminal sentencing. We also expand our coverage of questionable forensic scientific evidence in criminal cases. And, the courts’ role in reducing wrongful convictions has been highlighted throughout the book. Finally, we have made every effort to report the most up-to-date statistics available and to cite current empirical research throughout the Thirteenth Edition. To offset the additions to the book without expanding its length, we removed the former “Courts, Law, and Media” feature from each chapter that had been included in the last two editions of the book.

Chapter-by-Chapter Changes

Chapter 1—This chapter combines the introductory material in the first two chapters of earlier editions of the book. This chapter frames the study of courts using the racially charged case of Dylann Roof, who was convicted of the shooting deaths of nine African-American people in a South Carolina church. It also includes a new “Courts, Controversy, and Justice” feature on racial bias using the case of George Zimmerman, who was acquitted of killing unarmed teenager Travon Martin. Both Dylann Roof’s and George Zimmerman’s cases have been integrated throughout the chapter to illustrate several of the chapter’s main points. The coverage of civil law has been reduced so that the chapter’s introduction to law focuses on criminal law. The chapter also includes a new table on mass shootings, as well as updated examples of how the media can distort perceptions of the justice system by how they present information on high-profile criminal cases.

Chapter 2—Formerly Chapter 3, this chapter now includes the most up-to-date information and statistics on the federal judiciary and its caseload (including coverage of federal question jurisdiction, diversity jurisdiction, discrimination and civil rights cases, and prisoner petitions, some of which are presented in new figures). The chapter includes a new “Case Close-Up” feature on the federal court litigation surrounding stop-and-frisk activities in New York City, as well as information regarding new federalism concerns in the wake of *Taylor v. United States* (2016).

Chapter 3—Formerly Chapter 4, this chapter on state courts integrates new research on traffic cases (including DUI prosecutions), expands the discussion of community courts, presents updated caseload statistics for state courts, and includes new research on the effectiveness of various types of specialized courts.

Chapter 4—Formerly the last chapter in the book, this chapter on juvenile courts is now presented after the chapter on state courts. It includes many new citations, updated statistics on juvenile crime and transferring juveniles to adult court, and new tables and figures illustrating the latest trends in juvenile justice.

Chapter 5—In this chapter on the courthouse and the individuals who work there, we have included the latest research on court delay, information on the professionalization of court administration, and the recent decision in *Betterman v. Montana* (2016).

Chapter 6—Prosecutors are the focus of this chapter. We expanded coverage of prosecutorial misconduct, including the new move in select jurisdictions to hold prosecutors criminally responsible for misconduct that sends a wrongfully convicted person to prison.

Chapter 7—The chapter on the defense attorney includes up-to-date coverage on defenders’ caseloads and of case law concerning the right to counsel, self-representation, and ineffective assistance of counsel, including *Luis v. United States* (2016).

Chapter 8—The chapter presents the most current research and data on juries. It also includes

updated information on filibustering judicial nominees in the U.S. Senate; new examples of threats to judicial independence; new profiles of errant judges subjected to discipline; and the impact of *Williams v. Pennsylvania* (2016).

Chapter 9—The most current research on both victim and perpetrator demographic characteristics is presented in this revised chapter. The chapter has been reframed using the controversial case of Brock Turner, the Stanford University swim team member sentenced to only a short jail sentence for rape.

Chapter 10—This chapter on the processing of criminal cases explores the most current research on the pretrial processing of criminal felony cases. New tables and figures have been created to illustrate the most up-to-date data on criminal arrests, crime clearance rates, and case attrition statistics. The chapter also contains a new section on bail reform efforts across the United States that includes the use of risk assessment instruments in bail determinations.

Chapter 11—This chapter includes new content, including additional case law and expanded coverage of how seized property is accounted for and stored. The chapter now integrates *Cone v. Bell* (2009), *Utah v. Strieff* (2016), *Rodriguez v. United States* (2015), and *Birchfield v. North Dakota* (2016), as well as information on varying time lengths for obtaining search warrants, and updated requirements for recording custodial interrogations.

Chapter 12—The most up-to-date research on plea bargaining is integrated into this chapter.

Chapter 13—The chapter now includes expanded coverage of controversies surrounding the use of forensic scientific evidence at trial, including a new section on complex DNA mixture analysis. This chapter includes key recommendations from The President's Council of Advisors on Science and Technology (2016) report on "Forensic Science in Criminal Courts," as well as the critical responses to the report from criminal investigators and prosecutors. The chapter also includes a new section of "new technology as evidence" focusing on digital video evidence from police body-worn cameras. Finally, this chapter includes two recent U.S. Supreme

Court decisions—*Warger v. Shauers* (2014) and *Foster v. Chatman* (2016)—as well as the controversial federal appeals court decision in *Smithkline Beecham Corp. v. Abbott Laboratories* (2014).

Chapter 14—This chapter on sentencing combines and streamlines two former chapters—one on sentencing options and another on sentencing decisions. New tables and figures have been created, presenting the latest sentencing statistics. The chapter offers expanded coverage of public safety realignment efforts: the U.S. Supreme Court cases of *Ross v. Blake* (2016) and *Glossip v. Gross* (2016).

Chapter 15—Formerly Chapter 16, this chapter has been updated to present the latest data on both state and federal appeals, as well as *habeas corpus* proceedings. The chapter includes new and expanded coverage of exonerations and wrongful convictions. And it includes information on aftermath of the death of Justice Antonin Scalia relevant to both law and politics, including the unacted-upon nomination of Merrick Garland and the battle over Neil Gorsuch's nomination and eventual confirmation to the U.S. Supreme Court.

Pedagogical Innovations

This edition contains an array of pedagogical aids to facilitate student learning. These include the following:

- Chapter learning objectives open each chapter and are revisited in the Chapter Review to facilitate student mastery of chapter concepts. The learning objectives are also linked to the text's supplements (test bank and website quizzes) to further advance learning.
- End-of-chapter critical thinking questions provide students with an opportunity to practice their skills in the chapter's key area.
- An end-of-chapter list of key terms with page references serves as a helpful study tool.
- Suggestions for further reading are offered so students can explore chapter concepts further.
- Numerous exhibits and figures amplify text coverage for easier understanding by students.

Supplements

MindTap Criminal Justice

MindTap from Cengage Learning represents a new approach to a highly personalized, online learning platform. A fully online learning solution, MindTap combines all of a student's learning tools—readings, multimedia, activities, and assessments—into a singular Learning Path that guides the student through the curriculum. Instructors personalize the experience by customizing the presentation of these learning tools for their students, allowing instructors to seamlessly introduce their own content into the Learning Path via “apps” that integrate into the MindTap platform. Additionally, MindTap provides interoperability with major learning management systems (LMS) via support for open industry standards and fosters partnerships with third-party educational application providers to provide a highly collaborative, engaging, and personalized learning experience.

Online Instructor's Manual

The instructor's manual contains a variety of resources to aid instructors in preparing and presenting text material in a manner that meets their personal preferences and course needs. It presents chapter-by-chapter suggestions and resources to enhance and facilitate learning. The instructor's manual includes learning objectives, key terms, a detailed chapter outline, a chapter summary, discussion topics, student activities, and media tools. The learning objectives are correlated with the discussion topics, student activities, and media tools.

Cengage Learning Testing Powered by Cognero

This assessment software is a flexible, online system that allows you to import, edit, and manipulate test bank content from the *America's Courts and the Criminal Justice System* test bank or elsewhere, including your own favorite test questions; create multiple test versions in an instant; and deliver

tests from your LMS, your classroom, or wherever you want.

PowerPoint® Lectures

Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft PowerPoint® slides outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides are updated to reflect the content and organization of the new edition of the text and feature some additional examples and real-world cases for application and discussion.

Acknowledgments

Writing the Thirteenth Edition was made easier by the assistance and encouragement of people who deserve special recognition. First and foremost, we are indebted to Megan Verhagen, a graduate student in Arizona State University's School of Criminology and Criminal Justice. During the 2016–2017 academic year, Megan served as Dr. Fradella's research assistant. In that capacity, she assisted the authors by identifying new research that needed to be integrated into the Thirteenth Edition. She also updated many tables and figures throughout the book to reflect the most up-to-date statistics available. We both thank Megan for her outstanding research.

Second, we appreciate the thoughtful and detailed feedback we received from Christine Scott-Hayward and Christopher D. Totten with regard to combining and streaming the two chapters on sentencing in prior editions of the book into one uniform sentencing chapter in this edition.

Third, we would like to thank the Cengage criminal justice team, especially Carolyn Henderson Meier (product team manager) and Julia White (content developer). We are also grateful to the gifted production team who turned raw manuscript into a polished book and dispensed good cheer along the way, especially Christy Frame (senior content project manager) and Mary Stone at MPS.

As always, David's wife and children deserve a special note of thanks for their love and support. He dedicates the book to his children, in response to their bemusement at the idea that Daddy was busy writing a book.

Hank thanks David for asking him to become a co-author on this most influential of books. Hank's

husband Kyle also deserves special thanks for being supportive and putting up with his long hours of work on the book, even when it meant feeling neglected.

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Special thanks are due to the reviewers of this and all previous editions.

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AMERICA'S COURTS

AND THE CRIMINAL JUSTICE SYSTEM

1

Law, Crime, Courts, and Controversy



REUTERS/Alamy Stock Photo

Dylann Roof appears by closed-circuit television at his bail hearing in Charleston, South Carolina, in June 19, 2015—two days after he gunned down nine people Emanuel African Methodist Episcopal Church in an attempt to start a race war.

Chapter Outline

Courts and Crime

COURTS, CONTROVERSY, & JUSTICE

Does the Criminal Law Inhibit Justice as a Function of Racial Biases?

Courts and the Criminal Justice System

An Interdependent Criminal Justice System
A Fragmented Criminal Justice Nonsystem
Tensions and Conflicts

An Overview of U.S. Courts

Identifying the Actors in the Courthouse

Prosecutors
Defense Attorneys
Judges
Defendants and Victims

An Overview of Criminal Judicial Processes

Arrest
Initial Appearance
Bail
Grand Jury
Preliminary Hearing
Arraignment
Discovery
Pretrial Motions
Plea Negotiations
Trial
Sentencing
Appeal

CASE CLOSE-UP

Brown v. Mississippi

The Basis of Law

The Common Law Heritage

Judge-Made Law
Precedent
Multiple Sources of Law

The Adversary System

Safeguards

The Rights of the Accused

Due Process
Bill of Rights

Introduction to Criminal Law

Elements of a Crime
Defining Crimes
Criminal Defenses

Law on the Books vs. Law in Action

Courts and Controversy

Crime Control Model
Due Process Model
Shifting the Balance

Media Depictions and Distortions of Criminal Courts

On the evening of Wednesday, June 17, 2015, Dylann Roof entered the Emanuel African Methodist Episcopal Church in Charleston, South Carolina. Roof was 21-years-old at the time. He joined a group of people attending a Bible study at the historically Black church. After sitting with the group for about an hour, Roof, who is White, pulled a semiautomatic 45-caliber handgun from a fanny pack and opened fire while shouting racial epithets. One congregant tried to reason with Roof, but he responded, “No, you’ve raped our women and you are taking over the country. I have to do what I have to do” (as quoted in Drash, 2015, para. 19). In the end, Roof killed nine people, all of whom were African-American.

Roof was captured the morning after the mass shooting. He confessed to the crime, explaining that he had hoped to ignite a race war (Ellis, Botelho, & Payne, 2015). The investigation following the shooting revealed photos of Roof on Facebook, and photos on his website showed him wearing White supremacist paraphernalia. The website also contained a manifesto Roof authored in which he expressed his hatred of many racial and ethnic minority groups.

I have no choice. . . . I am not in the position to, alone, go into the ghetto and fight. I chose Charleston because it is most historic city in my state, and at one time had the highest ratio of blacks to Whites in the country. We have no skinheads, no real KKK, no one doing anything but talking on the internet. Well someone has to have the bravery to take it to the real world, and I guess that has to be me. (Robles, 2015, para 4)

The state of South Carolina charged Roof with nine counts of capital murder, meaning

Learning Objectives

After reading this chapter, you should be able to:

- LO1** Describe how the courts are related to the other components of the criminal justice system.
- LO2** Discuss the major types of courts found in the United States.
- LO3** Identify the most important actors in the courthouse.
- LO4** List the steps in a typical felony prosecution.
- LO5** List the four key elements defining law.
- LO6** Identify the three key characteristics of common law.
- LO7** Explain the importance of the adversary system.
- LO8** Name the four amendments of the Bill of Rights that deal specifically with criminal procedure.
- LO9** Identify the major elements of a crime.
- LO10** Identify some of the most important legal defenses in American law.
- LO11** Explain how a “law in action” perspective complements a “law on the books” approach to studying the criminal courts.
- LO12** Distinguish between the crime control model of criminal justice and the due process model of criminal justice.

that prosecutors sought the death penalty. And the U.S. government also indicted Roof on federal charges, including nine counts of using a firearm to commit murder and 24 civil rights violations based on federal hate crime laws.

After Roof was found competent to stand trial, a federal judge granted Roof's request to represent himself at his federal trial (as is his constitutional right). It took the jury less than two hours to return guilty verdicts on all 33 charges. In January of 2017, he was formally sentenced to death.

Courts and Crime

Dylann Roof's case is atypical of most criminal cases for a number of important reasons. First, he was charged with capital murder. Contrary to their omnipresence in the media, murder and nonnegligent homicide cases account for less than 1/10 of 1 percent of all criminal arrests (Federal Bureau of Investigation, 2015). Moreover, the death penalty is sought in only a small fraction of murder cases. Second, the multiple counts of murder resulted from a mass shooting—an incident in which four or more people were killed. As Table 1.1 illustrates, these events are relatively rare, although they have increased in recent years. In 1982, one mass shooting occurred in which eight people were killed. By the end of 2016, 84 additional mass shootings had occurred in the United States, resulting in 672 more fatalities (Follman, Aronsen, & Pan, 2017).

Third, Roof faced parallel criminal proceedings in both state and federal courts, whereas the overwhelming majority of criminal cases are litigated exclusively in state courts. Similarly, criminal prosecutions for racially motivated killings are rare. Fourth, Roof was the first person in U.S. history to face both a federal and state death penalty at the same time (Kozłowska, 2016). Fifth, Dylann Roof's case went to trial, rather than being resolved via the plea-bargaining process like 90 to 95 percent of all felony cases. And finally, Roof opted to represent himself, rather than have an attorney represent him the way that 99.5 percent of all criminal defendants do (Hashimoto, 2007). In contrast to all these exceptions to the rule, one thing about Dylann Roof's case is quite typical: he was found guilty—just as

TABLE 1.1 U.S. Mass Shootings and Fatalities, 2007–2016

Year	Incidents	Fatalities
2016	6	71
2015	7	46
2014	4	18
2013	5	35
2012	7	72
2011	3	19
2010	1	9
2009	4	39
2008	3	18
2007	4	53
<i>10-Year Total</i>	44	380

Source: Follman, Aronson, & Pan, 2017.

approximately 90 percent of all felony defendants who go to trial are convicted.

Dylann Roof's case also highlights the common disconnect between the way a case is perceived by those evaluating the evidence presented in a court of law and the ways in which a case is perceived in the court of public opinion. In a courtroom, defendants are presumed innocent until proven guilty beyond a reasonable doubt. In contrast, reporters, media pundits, and their audiences are not constrained by formal presumptions or the rules



Does the Criminal Law Inhibit Justice as a Function of Racial Biases?

On February 26, 2012, 17-year-old Trayvon Martin was walking back to a house at which he was a guest after purchasing Skittles and a fruit drink from a local 7-Eleven. George Zimmerman, a 28-year-old, mixed-race Hispanic male, who was a member of his local neighbor watch program, called 911 and reported Martin, an African-American teenager wearing a gray hoodie, as a “suspicious person.” Although police instructed Zimmerman not to get out of his vehicle or otherwise engage the person he called to report, Zimmerman ignored these instructions. Armed with a 9-millimeter pistol, Zimmerman pursued Martin on foot. Within minutes, Zimmerman shot and killed Martin, who was unarmed. Zimmerman claimed he did so in self-defense after the unarmed teenager “knocked him to the ground, punched him, and slammed his head repeatedly against the sidewalk” (Alvarez & Buckley, 2013, p. A1). Zimmerman was eventually charged with second-degree murder and the lesser offense of manslaughter. The events following Martin’s death and Zimmerman’s acquittal set off a national debate on racial profiling, the scope of self-defense laws, and even gun rights.

The case against George Zimmerman for killing Trayvon Martin began as a routine homicide investigation. Police arrived at the scene within minutes of the shooting. Zimmerman was bleeding from the nose and the back of his head. These injuries supported Zimmerman’s version of the events in question. Specifically, Zimmerman claimed that Martin “pounced” on him and, during the ensuing struggle, Martin made Zimmerman fear for his life. Thus, Zimmerman maintained that he shot Martin in self-defense after his repeated

calls for help had gone unheeded. After questioning Zimmerman for nearly five hours, police decided that there was insufficient evidence to arrest Zimmerman on any charges. Apparently, Florida’s “stand your ground” law played a significant role in that decision since that version of a self-defense law bars police from arresting anyone who uses force in self-defense “unless it determines that there is probable cause that the force that was used was unlawful” (Florida Stat. § 776.032(2), 2005). With no real evidence to contradict Zimmerman’s version of the events, police decided to let him go.

However, investigators ultimately decided that Zimmerman could have avoided the encounter with Martin if he had listened to the police instructions to stay in his vehicle until law enforcement officers arrived. Indeed, the National Sheriffs’ Association (2012) criticized Zimmerman’s actions as “significantly contradict[ing] the principles of the Neighborhood Watch Program” (para. 2), which does not condone participants taking “the law into their own hands” (para. 3). Moreover, segments of the public, fueled, in large part, by the media, accused Zimmerman of having racially profiled an unarmed Black teenager wearing a hoodie as being someone up to no good in a nice, gated community in a Florida suburb.

At trial, prosecutors painted Zimmerman as a “wannabe cop” motivated, in part, by racial prejudice. But to prove second-degree murder, the prosecution needed to prove that Zimmerman shot Martin with a “depraved mind” brimming with ill will, hatred, spite or evil intent” (Alvarez & Buckley, 2013, p. A1). To prove the lesser offense of manslaughter, the prosecution needed to prove that Zimmerman had recklessly placed himself in a situation that led to Trayvon Martin’s death. But proving either charge is extremely difficult in a self-defense case. In fact, the law in Florida required

of evidence. This disparity often causes people to misperceive the criminal judicial process as unfair. This book seeks to correct the most common misperceptions about the role of the courts in the U.S. criminal justice system.

There can be no doubt that changes in popular culture affect America’s legal institutions. For example, “changes in popular culture brought about

by rapid scientific and technological advances and widespread dissemination of information about them” has “heightened juror expectations and demands for scientific evidence in almost every respect” (Shelton, Kim, & Barak, 2009, p. 2). Indeed, jurors expect sophisticated forensic evidence in even the most mundane cases (Shelton, 2008; Feeler, 2014). Some scholars and practitioners

prosecutors to convince the jury, beyond a reasonable doubt, that Zimmerman did not act in self-defense. That high burden of proof is nearly insurmountable to overcome in cases, like this one, in which the parties clearly fought and no eyewitnesses or evidence contradict claims of self-defense.

Even after three weeks of testimony, the fight between Mr. Martin and Mr. Zimmerman on that rainy night was a muddle, fodder for reasonable doubt. It remained unclear who had started it, who screamed for help, who threw the first punch and at what point Mr. Zimmerman drew his gun. There were no witnesses to the shooting. . . . The defense also had one piece of irrefutable evidence, photographs of Mr. Zimmerman's injuries—a bloody nose along with lumps and two cuts on his head. It indicated that there had been a fight and that Mr. Zimmerman had been harmed. . . . (Alvarez & Buckley, 2013, p. A1)

In addition, subsequent forensic analysis partially substantiated Zimmerman's claim that Martin was on top of him, preventing Zimmerman from escaping Martin's assault; in fact, a forensic pathologist concluded that, "the trajectory of the bullet was consistent with Mr. Martin leaning over Mr. Zimmerman when the gun was fired" (Alvarez & Buckley, 2013, p. A1). Thus, in the end, legal experts largely agreed that Zimmerman's acquittal was technically proper under the law even though he made a series of very bad choices on the night in question (Savage & Muskal, 2013). Nonetheless, scholars and civil rights activists argued that permissive gun laws and broad self-defense laws combined to create an unjust end to a case involving the tragic death of an unarmed teenager whose race and style of dress likely influenced both his killer and the jury who deliberated that gunman's fate (Fradella, 2013; Jones-Brown & Fradella, 2015; Megale, 2013).

According to the Pew Research Center (2013), nearly as many Americans were satisfied by the outcome (39 percent) as we dissatisfied with it (42 percent). But a closer look at the data reveals significant differences on perception by race and by age:

- 86 percent of Blacks were dissatisfied with Zimmerman's acquittal compared to 58 percent of Hispanics and 30 percent of Whites.
- 78 percent of Blacks, 47 percent of Hispanics, and only 28 percent of Whites said the case raised important issues about race that need to be discussed.
- 60 percent of Whites and 40 percent of Hispanics felt the issue of race in the case received more attention than it deserved, whereas only 13 percent of Blacks felt that way.
- Among Whites, 49 percent were satisfied with the verdict compared to 30 percent who were dissatisfied. But this difference varied by age. Whites under the age of 30 were roughly evenly split, whereas Whites over the age of 65 expressed satisfaction in the verdict by a nearly 2-to-1 ratio.
- Of those under the age of 30, 53 percent were dissatisfied with the verdict, whereas 29 percent were satisfied. In sharp contrast, 50 percent of people age 65 and older were satisfied with the case outcomes compared to 33 percent who were dissatisfied.
- 80 percent of Tea Party Republicans and 61 percent of mainstream Republicans expressed satisfaction with the verdict, compared with 42 percent of Independents and just 22 percent of Democrats.

Where do you stand on the outcome of the Zimmerman trial? Why?

call this phenomenon the **CSI effect**, even though forensic science on television appears to be only one factor in an overall social trend that embraces technology while discounting logical inference (see Chapter 13). But the widespread use of forensic evidence to convict guilty defendants at trial and exonerate the innocent on appeal is just one example of the dynamic nature of the legal system in the

United States. But as the "Courts, Controversy, & Justice" feature illustrates, forensic evidence may not be conclusive; moreover, it must be considered in light of other evidence that reasonable people may interpret differently.

Although courts and law have a long history that provides stability, this does not mean that courts and law are static institutions. On the

contrary, changes in society end up in courthouses in a variety of ways. At times, specific events are the catalyst for change. In the aftermath of the terrorist attacks of September 11, 2001, for example, courts wrestled with questions about the scope of electronic eavesdropping and whether alleged terrorists can be held indefinitely in military prisons without trials. Similarly, claims of racial profiling in who were stopped, questioned, and frisked by New York City Police Department officers led to the federal courts adjudicating several class action civil rights lawsuits that ultimately resulted in a settlement involving judicial oversight of police stop-and-frisk activities (White, Fradella, Morrow, & Mellom, 2016). And the acquittal of George Zimmerman for killing of Trayvon Martin gave rise to the Black Lives Matter movement. That movement grew exponentially in 2014 through 2016 in response to a series of incidents in which unarmed African-American citizens were shot and killed during encounters with police, including Michael Brown (Ferguson, MO), Eric Garner (New York City), Laquan McDonald (Chicago), Tamir Rice (Cleveland), and Freddie Gray (Baltimore), just to name a few. These events, in turn, not only caused prosecutors, judges, and juries to examine whether police use of force was legally justified under the facts of each case but also prompted the U.S. Department of Justice to investigate some local law enforcement agencies that, as a result, are now subject to judicial scrutiny or oversight (Childress, 2015). In short, there can be no doubt that the courts frequently play a significant role in the resolution of major social problems related to crime and responses to it.

At other times, courts have been forced to adapt to changes in other branches of government. Legislatures across the nation, for example, have launched wars on drugs that have flooded the courts with a growing number of cases even as the incidence of other crimes decreases. Likewise, changes in public opinion affect how justice is administered. Concerned about crime rates that are too high, the public has demanded that judges get tough with criminals.

Courts are independent from the other branches of government, but this does not mean that they are

divorced from the society they serve. Rather, societal issues impact the kinds of cases brought to court and how they are handled. For example, concerns about gender equity prompted examination of how courts handle domestic violence and why district attorneys decline to prosecute many sexual assault cases. How courts adapt to social changes is important. And while change in society is inevitable, it is also unsettling. Simply stated, change produces controversy. A good deal of this book examines the controversy surrounding courts and crime.

Courts and the Criminal Justice System

The criminal justice system in the United States is large and complex. Indeed, fighting crime is a major societal activity. According to the U.S. Bureau of Justice Statistics (Kyckelhahn, 2015), every year, local, state, and federal governments spend approximately \$265.16 billion on the criminal and civil justice system in the United States. These tax dollars support an enormous assortment of criminal justice agencies, which in turn employ a large (and growing) number of employees; approximately 2.5 million people earn their living working in the criminal justice system. These government officials are quite busy: Every year, the police make more than 13 million arrests, not including traffic violations. And every day, correctional personnel supervise approximately 7 million people—about 2.2 million of whom are in prisons or jails and the balance of whom are supervised in the community on probation or parole. Yet as large as these figures are, they still underestimate societal activity directed against crime. A substantial number of persons are employed in the private sector in positions either directly (defense attorneys and bail agents) or indirectly (locksmiths and private security) related to dealing with crime (Hakim, Rengert, & Shachmurove, 1996; Police Executive Research Forum, 2014; Ribovich & Martino, 2007).

The numerous public agencies involved in implementing public policy concerning crime are referred to as the **criminal justice system**. Figure 1.1 depicts

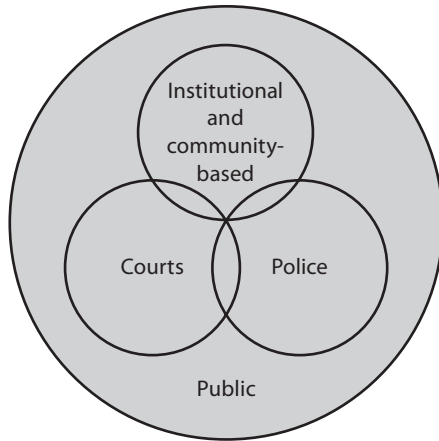


FIGURE 1.1 The Overlapping Circles of the Criminal Justice System

the criminal justice system as consisting of three overlapping circles: Police are responsible for apprehending criminals; the courts are responsible for deciding whether those arrested are legally guilty and, if so, determining the sentence; corrections is responsible for carrying out the penalty imposed on the guilty.

The major components of the criminal justice system do not make up a smoothly functioning and internally consistent organization. Rather, the criminal justice system is both interdependent and fragmented.

An Interdependent Criminal Justice System

Viewing the various components of criminal justice as a system highlights the fact that these different agencies are interdependent and interrelated. Police, courts, and corrections are separate government institutions with different goals, histories, and operating procedures. Though separate, they are also tied together because they must interact with one another. The courts play a pivotal role within the criminal justice system because many formal actions pertaining to suspects, defendants, and convicts involve the courts. Only the judiciary can hold a suspect in jail prior to trial, find a defendant guilty, and sentence the guilty person

to prison. Alternatively, of course, the courts may release the suspect awaiting trial, find the suspect not guilty, or decide to grant probation.

The decisions that courts make have important consequences for other components of the criminal justice system. Judges' bail policies, for example, immediately affect what happens to a person arrested by the police; likewise, corrections personnel are affected because the bail policies of the judges affect the size of the local jail population. If the decisions made by the courts have important consequences for police and prisons, the reverse is equally true: The operations of law enforcement and corrections have a major impact on the judiciary. The more felons the police arrest, the greater the workload of the prosecutors; and the more overcrowded the prisons, the more difficult it is for judges to sentence the guilty.

A Fragmented Criminal Justice Nonsystem

The system approach to criminal justice dominates contemporary thinking about criminal justice. But not everyone is convinced of the utility of this conceptualization. Some people point to a nonsystem of criminal justice. Although the work of the police, courts, and corrections must, by necessity, overlap, this does not mean that their activities are coordinated or coherent. From the perspective of the nonsystem, what is most salient is the fragmentation of criminal justice. Fragmentation characterizes each component of the criminal justice system. The police component consists of nearly 18,000 law enforcement agencies, with varying traditions of cooperation or antagonism. Likewise, the corrections component includes more than 1,820 state and federal correctional facilities, to say nothing of the thousands of local jails. But corrections also encompasses probation, parole, drug treatment, halfway houses, and the like.

The same fragmentation holds true for the courts. In many ways, talking about courts is misleading, because the activities associated with "the court" encompass a wide variety of actors. Many people who work in the courthouse—judges, prosecutors,