

FIRST EDITION

INTRODUCTION TO CRIMINAL JUSTICE, LAW ENFORCEMENT, AND THE COURTS

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Crime and Justice in the United States

CHAPTER OUTLINE

Crime in the United States

Criminal Justice: An Institution of Social Control

Criminal Justice: The System

Police
Courts
Corrections

Criminal Justice: The Nonsystem

Two Models of Criminal Justice

The Crime Control Model
The Due Process Model
Crime Control versus Due Process

Costs of Criminal Justice

Myths About Crime and Criminal Justice

LEARNING OBJECTIVES

After completing this chapter, you should be able to:

1. Describe how the type of crime routinely presented by the media compares with crime routinely committed.
2. Identify institutions of social control, and explain what makes criminal justice an institution of social control.
3. Summarize how the criminal justice system responds to crime.
4. Explain why criminal justice in the United States is sometimes considered a nonsystem.
5. Point out major differences between Packer's crime control and due process models.
6. Describe the costs of criminal justice in the United States, and compare those costs among federal, state, and local governments.
7. Explain how myths about crime and criminal justice affect the criminal justice system.





Crime Story

On February 14, 2018, 19-year-old Nikolas Cruz (pictured) walked into Marjory Stoneman Douglas (MSD) High School in Parkland, Florida, and opened fire with an AR-15 assault rifle. After shooting more than 100 rounds in 6 minutes, 14 students and 3 staff members were dead, and 17 others were wounded. The 17 people killed at the high school represented 30% of the 56 school shooting victims killed in 2018—the deadliest year on record (as of 2018).

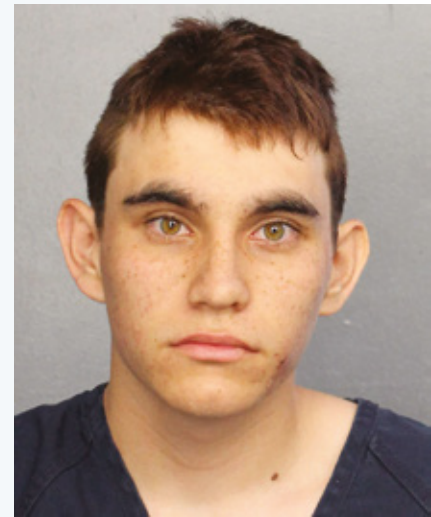
Cruz walked away from the carnage, blending in with other students, but was caught and arrested about an hour later. The state attorney in Broward County charged Cruz with 17 counts of premeditated murder and 17 counts of attempted murder and is seeking the death penalty. Cruz is being held without bail. His defense attorneys acknowledge that he was the killer and have focused their efforts on avoiding execution.

Several of the surviving students are determined that the deaths of their classmates and friends will not be forgotten following the requisite “thoughts and prayers,” as has been the case after so many previous school shootings. Instead, these students organized the “Never Again MSD” movement and helped to coordinate the National School Walkout of March 14, and the March for Our Lives on March 24. The latter crusade attracted more than one million people across the country to rally for safe schools and an end to gun violence. They also have worked to get young people to register and vote, even though some of them were not old enough to vote themselves and have been lobbying for stricter gun laws and challenging the National Rifle Association and the lawmakers it supports.

The efforts of local, state, and national officials pale in comparison. The MSD High School Public Safety Commission, which was created to examine the tragedy,

criticized Broward County Sheriff Scott Israel for a policy stipulating that deputies “may” confront active shooters rather than “shall” confront them. Deputy Scot Peterson, the school resource officer and first law enforcement on the scene, chose not to confront Cruz. Sheriff Israel called Peterson a “disgrace,” telling reporters that Peterson should have rushed in, “addressed the killer, killed the killer.” President Trump, responding to the massacre, said, “That’s a case where somebody was outside, they’re trained, they didn’t act properly or under pressure or they were a coward.” Peterson, in his defense, stated that at first he thought the shooting was firecrackers outside the school, and then he maintained that he could not tell from where the gunshots were coming. He asserted that he followed protocol by taking up a tactical position outside the building. However, the Commission determined that he lied, and that Peterson knew the shooter was inside the school but did not want to confront him. Peterson resigned from the Sheriff’s department and is collecting a pension of more than \$100,000 a year. As for Sheriff Israel, he justified his “non-confrontation” policy by explaining that he did not want his deputies charging into “suicide missions.” New Florida Governor Ron DeSantis, in one of his first acts after taking office, suspended Israel, accusing him of “neglect of duty” and “incompetence.” Israel has requested a hearing on the suspension before the state senate.

The report also was critical of school superintendent Robert Runcie for inadequate security at the school, not preparing school staff to respond to a mass shooting, and his PROMISE program, which was designed to prevent some student rule violators, such as Nikolas Cruz, from getting police records. Cruz had been expelled from the school the year before. Runcie has subsequently ordered safety upgrades. He also fired two school security monitors and reassigned three assistant principals and a



security specialist. Runcie has retained his job for now. In his defense, the president of the NAACP Florida State Conference argued that removing Runcie “would be an extreme overreach, highly political and racist.”

Following the tragedy, some states approved gun control measures, such as keeping firearms from people convicted of domestic violence or considered suicidal, increasing background checks, and restricting the concealed carrying of firearms. The only federal legislation of note was the banning of bump stocks, which are devices that can make a weapon fire many rounds in a short period of time.

According to the Naval Postgraduate School Center for Homeland Defense and Security’s K–12 School Shooting Database, the MSD High School shooting was one of 97 that occurred in 2018—the largest number of school shooting incidents in the United States in any year since data were first collected in 1970. Since December 14, 2012, the date of the Sandy Hook Elementary School shooting in Newtown, Connecticut, where 20-year-old Adam Lanza shot and killed 20 children between the ages of 6 and 7 and 6 adult staff members, and through 2018, 296 school shootings have occurred in the United States with 142 deaths and 300 injuries.

Among the topics discussed in this chapter is how the media shape people's understanding of crime and criminal justice. While the media coverage of the Sandy Hook Elementary School and MSD High School shootings received extensive media coverage, did you know that they were only two of the nearly 300 school

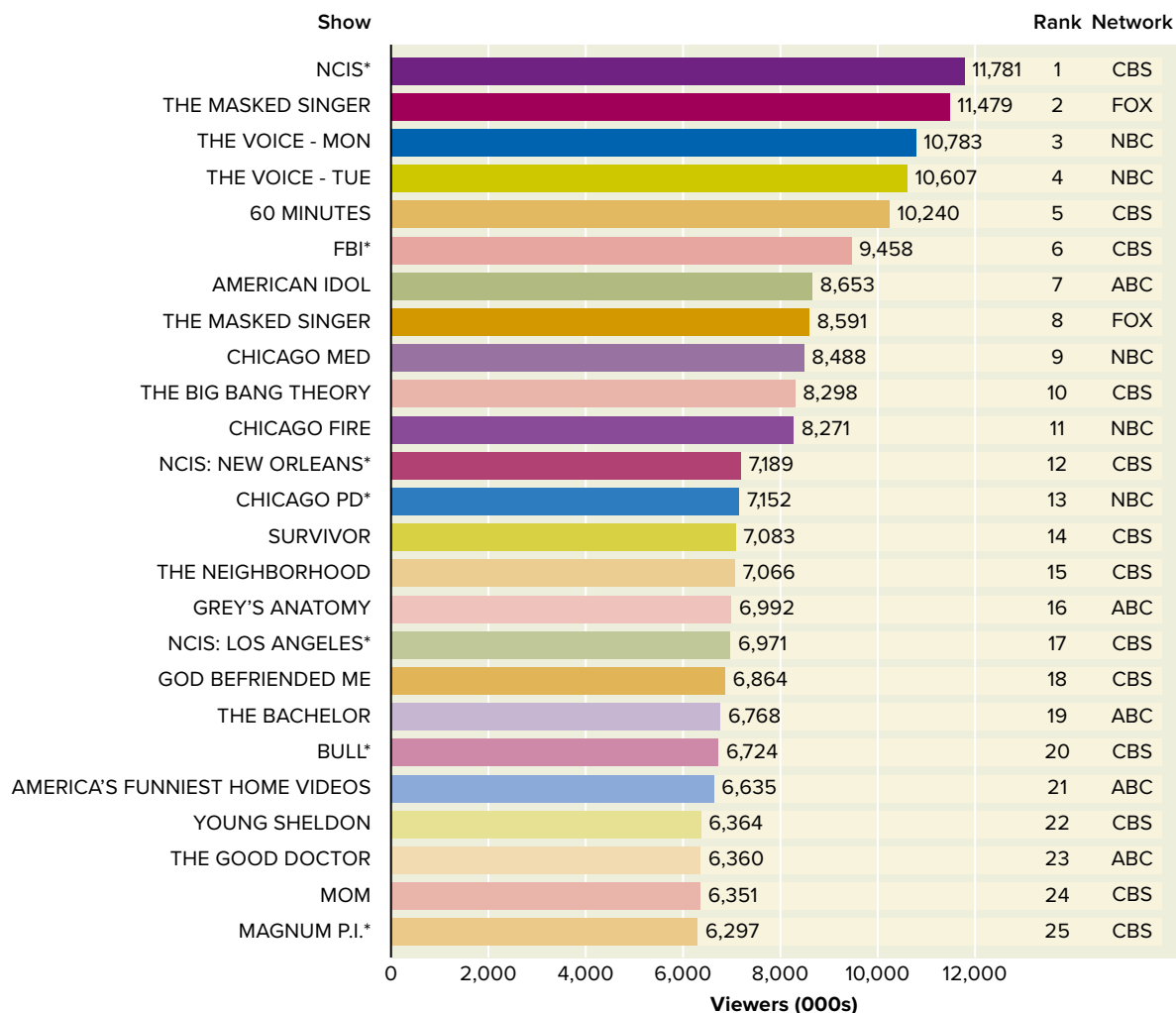
shootings that occurred between 2013 and 2018? Why not? And while 34 students and 9 staff members were killed at Sandy Hook Elementary School and MSD High School, did you know that nearly 100 other students and staff members were killed between 2013 and 2018? Why not? The answers to those questions likely in-

clude the lack of extensive media coverage of the vast majority of school shootings. What determines which events the media focus on? Based on what you have learned here, do you think school shootings are a problem in the United States? Do you think they are a greater problem than you originally believed?

Crime in the United States

Every day we are confronted with reports of crime in newspapers, magazines, and radio and television news programs. We also see crime in TV docudramas; on such popular shows as the fictional *Criminal Minds*, *The Blacklist*, and *Bones*; on the long-running franchises *Law & Order* and *CSI*; and on reality-based shows such as *America's Most Wanted*, *Cops*, and *Unsolved Mysteries*. Crime shows are so popular on television they accounted for 7 of the top 25 broadcast shows for the week February 25 to March 3, 2019 (see Table 1.1). Furthermore, in some of the other

TABLE 1.1 Top 25 Broadcast Shows in Total Viewers for February 25–March 3, 2019



Source: Adapted from the Nielsen Company, <https://tvbythenumbers.zap2it.com/weekly-ratings/broadcast-top-25-networkrankings-feb-25-march-3-2019/> (accessed March 8, 2019).



Daily Television Time

According to a 2018 study, Americans aged 18 and

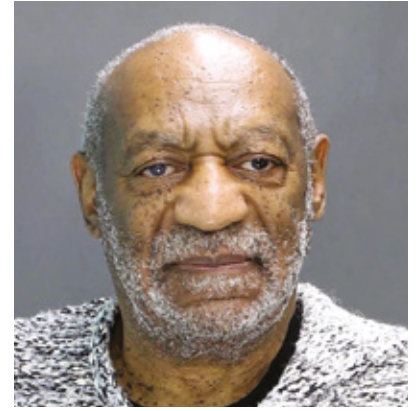
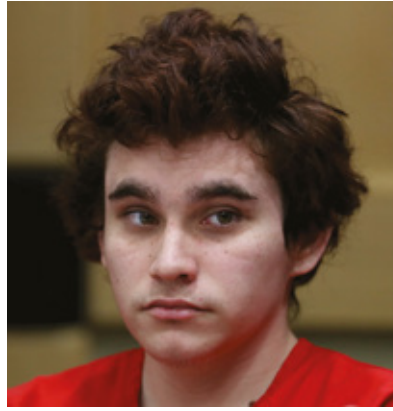
older spend nearly 5 hours a day watching TV—about the same amount of time found in 2014 and 2009 studies. However, the 2018 study found a generation gap. Those aged 50 and older spent more than 6 hours a day watching TV, while young adults watched significantly less TV.

Source: Felix Richter, “The Generation Gap in TV Consumption,” *Statista*, August 27, 2018, <https://www.statista.com/chart/15224/daily-tv-consumption-by-us-adults/>; David Hinckley, “Average American Watches 5 Hours of TV Per Day, Report Shows,” *New York Daily News*, March 5, 2014, www.nydailynews.com/life-style/8-Hours-a-Day-Spent-on-Screens-Study-Finds- *The New York Times*, March 26, 2009, www.nytimes.com/2009/03/27/business/media/27adco.html?_r=1.

top 25 series, such as *60 Minutes*, crime is frequently a significant storyline element. There is also the Crime + Investigation channel, which prominently features crime and justice issues. And crime is a favorite subject of movies and novels. Unfortunately, some of us encounter crime more directly as victims. No wonder crime is a top concern of the American public.

We should keep in mind, however, that the crimes presented by the media are usually more sensational than the crimes routinely committed. Consider some of the top crime news stories in the United States in 2018:

- On February 5, 2018, Larry Nassar, the 54-year-old disgraced former USA Gymnastics and Michigan State University doctor, was sentenced in Eaton County, Michigan, to 40 to 125 years in prison after pleading guilty to 3 counts of first-degree criminal sexual conduct. He will serve that sentence concurrently (at the same time) with the 40-to-175-year sentence he received on January 24, 2018, in Ingham County, Michigan, after pleading guilty to 7 counts of first-degree criminal sexual conduct. He will serve those sentences after completing a separate 60-year sentence in federal prison that he received on December 7, 2017, for child pornography charges. At his state trials, more than 150 women and girls testified that he sexually abused them over the past 2 decades. He admitted to using his trusted medical position to assault and molest girls under the guise of medical treatment.¹
- On February 14, 2018, 19-year-old Nikolas Cruz killed 14 students and 3 staff members and wounded 17 others when he opened fire with an AR-15 assault rifle at Marjory Stoneman Douglas High School in Parkland, Florida. Cruz, who had been expelled from the school the year before, walked away from the carnage, blending in with other students, but was arrested more than an hour later. The state attorney in Broward County charged Cruz with 17 counts of premeditated murder and 17 counts of attempted murder and will seek the death penalty. The 17 people killed at the high school represented 30% of the 56 school shooting victims in 2018—the deadliest year on record (as of 2018; see the Crime Story for more details).²
- On May 18, 2018, 17-year-old Dimitrios Pagourtzis used his father’s legally owned sawed off shotgun and a .38 handgun to kill 9 students and 1 teacher and wound 13 others at Santa Fe High School, near Galveston, Texas. Pagourtzis admitted that he did not shoot people he liked and intended to kill the ones he targeted. One student reported that Pagourtzis was “really quiet and he wore like a trench coat almost every day.” Law enforcement authorities later found explosive devices, including pipe bombs and pressure cookers, in and near the school. The school shooting was the 22nd in the United States since the beginning of 2018.³
- On June 28, 2018, 38-year-old Jarrod Ramos walked into the *Capital Gazette* newsroom in Annapolis, Maryland, opened fire, and killed five newspaper employees and wounded two others. The attack occurred a few years after Ramos had unsuccessfully sued the newspaper for defamation after the newspaper published an article about Ramos harassing a former classmate on social media. Ramos pleaded guilty to a harassment charge. On July 20, 2018, Ramos was indicted on 23 counts, including 5 counts of first-degree murder, 1 count of attempted first-degree murder, and 17 other assault and weapon charges. On January 22, 2019, a judge gave Ramos extra time to consider changing his not guilty plea to an insanity plea.⁴
- On September 25, 2018, 81-year-old Bill Cosby, once known as “America’s Dad,” received a 3-to-10-year sentence in state prison for drugging and sexually



Criminal cases involving Larry Nassar, Nikolas Cruz, and Bill Cosby were among the top crime news stories of 2018. What factors made these crimes so sensational?

assaulting Andrea Constand at his home in 2004. Cosby also was ordered to pay a fine of \$25,000 plus court costs. He will be classified as a “sexually violent predator,” a designation that requires lifetime registration, lifetime mandatory sex offender counseling with a treatment provider, and notification to the community that a “sexually violent predator” lives in the area. Cosby was convicted in April of aggravated indecent assault. He had been accused of similar crimes by dozens of other women, but Constand’s case was the only one that occurred within the **statute of limitations**. A statute of limitations is a law establishing a time limit for prosecuting a crime, based on the date when the offense occurred. Cosby’s trial was the first high-profile celebrity criminal trial of the #MeToo era.⁵

- On October 27, 2018, Robert Bowers, a 46-year-old long-haul trucker armed with a rifle and three handguns, stormed into the Tree of Life Congregation Synagogue in the affluent Squirrel Hill neighborhood of Pittsburgh, Pennsylvania, shouting anti-Semitic slurs and killing 11 worshipers in a 20-minute attack. Two worshipers and four officers were injured. The murder victims ranged in age from 54 to 97. Bowers finally surrendered to police officers after suffering multiple gunshot wounds. Bowers was charged with 29 federal criminal counts, including 11 federal



Crime in the News

You can read more about past and present crime news stories by visiting

the ThoughtCo. Crime/Punishment website at <https://www.thoughtco.com/crime-and-punishment-4132972>.

Does this website provide a balanced picture of crime in the United States, or does it primarily provide sensational news coverage?

statute of limitations A law establishing a time limit for prosecuting a crime, based on the date when the offense occurred.



As shown in Table 1.2, Portland, Oregon, police respond to unwanted person and welfare check calls more often than any other type of call for service. *Should police respond to these types of calls, or should some other agency be responsible for them? Defend your answer.*

TABLE 1.2 Distribution of Calls for Police Service

Police Calls	Percentage
Unwanted person ^a	11.6
Welfare check ^b	11.3
Disturbance ^c	10.6
Suspicious ^d	8.2
Theft ^e	7.4
Collision ^f	5.4
Alarm ^g	4.9
Stolen vehicle ^h	4.3
Area/premise check ⁱ	4.0
Assist ^j	3.9
Assault ^k	2.6
Threat ^l	2.1
Behavioral health ^m	2.0

^aCalls related to subjects refusing to leave a location when asked; ^bCalls related to requests to check on the health or safety of a subject; ^cCalls related to nonspecific reports of a threat to public peace or safety; ^dCalls related to reports of suspicious persons, vehicles, or circumstances; ^eCalls related to the unlawful taking of property from the possession of another entity; ^fCalls related to reports of traffic collisions; ^gCalls initiated by the activation of an audible, silent, duress, and/or monitored alarm of a vehicle, residence, business, or other premise; ^hCalls related to the theft of a motor vehicle; ⁱCalls related to requests to check a specific location for potential problems or to make sure the site is secure; ^jCalls to provide assistance to partner agencies, including Portland Fire and Rescue, American Medical Response (AMR), and other law-enforcement agencies; ^kCalls related to the unlawful attack by one person upon another. Includes stabbings, shootings, and other types of assaults; ^lCalls related to the placing of another person in reasonable fear of bodily harm through the use of words or other conduct; ^mCalls related to behavioral health, including crisis response, suicide attempts or threats, and transports to detox.

Notes: These data represent calls for police service to the Portland, Oregon Police Department from February 2018 to February 2019. There were a total of 832,123 calls.

Source: Police Foundation, Police Data Initiative. Portland, Oregon. Accessed April 4, 2019, [policedatainitiative.org](https://www.portlandoregon.gov/police/76454) or <https://www.portlandoregon.gov/police/76454>.

hate-crime charges. Another 11 counts of using a firearm to kill carry a maximum penalty of death. He had previously posted anti-Semitic rants on social media. In 2017, anti-Semitic incidents in the United States increased nearly 60%. The attack is believed to be the deadliest on the Jewish community in U.S. history.⁶

- On November 7, 2018, Ian David Long, a 28-year-old former Marine armed with a legally purchased .45-caliber Glock 21 handgun with an extended magazine, shot his way into the Borderline Bar and Grill in Thousand Oaks, California, about 40 miles northwest of Los Angeles. He killed 12 people, including a sheriff's sergeant, before shooting and killing himself. Many other people were wounded. Several hundred people were inside the bar for a "college country night." At the time, it was the 307th mass shooting in the United States in 2018.⁷

Some of these crime stories are likely to remain top news stories for 2019 and beyond. Furthermore, the fight against domestic terrorism occasioned by the tragedies of September 11, 2001, is likely to remain newsworthy for the foreseeable

future. However, taken together, these sensational crime news stories do not provide a very accurate image of the types of crime by which the average citizen is victimized. Nor do such stories accurately depict the kinds of crime the police respond to on a daily basis.

To provide a more accurate idea of the kinds of crimes more typically committed, we reviewed a list of calls for police service in Portland, Oregon, from February 2018 to February 2019.⁸ There were 832,123 calls for police service during the period selected. A close examination of the list of police calls (see Table 1.2) reveals that the most frequent type of call for service in Portland involves unwanted persons. This type of call accounted for 11.6% of the total. Other calls for service in Portland ranged from welfare checks (11.3%) to disturbances (10.6%); from suspicious persons, vehicles, or circumstances (8.2%) to thefts (7.4%); and from traffic collisions (5.4%) to alarms (4.9%). The calls for police service listed in Table 1.2 represent only those that accounted for at least 2% of the total calls. In all, there were 49 categories of calls for police service. There were also serious crimes or potential crimes not included in the list (because they accounted for less than 2% of the total calls): 3,284 robbery calls (0.4%), 1,491 domestic violence calls (0.2%), and 77 arson calls (0.009%). Police also are called to assist motorists and to provide escorts for funeral processions—to name just two additional services. Police services and responsibilities are discussed further in Chapter 6.

Here, it is important to observe that the calls police routinely respond to rarely involve the sensational crimes reported by the media. In many cases, they do not involve crimes at all. Critics argue that the news media have a dual obligation to (1) present news that reflects a more balanced picture of the overall crime problem and (2) reduce their presentation of sensational crimes, especially when such crimes are shown not so much to inform as to pander to the public's curiosity and its simultaneous attraction and repulsion toward heinous crimes. The more fundamental problem, however, is that the public's conception of crime is, to a large extent, shaped by the media, and what the media present, for the most part, misleads the public about the nature of crime.

THINKING CRITICALLY

1. Do you think the news media are obligated to present a balanced picture of the overall crime problem and reduce their presentation of sensational crimes? Why or why not?
2. How much do you think the media influence the public conception of crime? How do you think the media select crime stories on which to focus?
3. In what ways is crime entertainment?

Criminal Justice: An Institution of Social Control

In the United States, there are a variety of responses to crime. When a child commits a criminal act, even if that act does not come to the attention of the police, parents or school authorities nevertheless may punish the child for the offense (if they find out about it). Attempts to prevent crime by installing burglar alarms in automobiles and homes are other ways of responding to crime. Throughout this book, we focus on the criminal justice response to crime.

Getting fingerprints is generally a part of the booking into jail process. Pictured here is an inmate being fingerprinted with a technologically advanced “Printrat Livescan Finger Machine.” *Why are inmates fingerprinted?*



institution of social control An organization that persuades people, through subtle and not-so-subtle means, to abide by the dominant values of society.

Like the family, schools, organized religion, the media, and the law, criminal justice is an **institution of social control** in the United States. A primary role of such institutions is to persuade people, through subtle and not-so-subtle means, to abide by the dominant values of society. Subtle means of persuasion include gossip and peer pressure, whereas expulsion and incarceration are examples of not-so-subtle means.

As an institution of social control, criminal justice differs from the others in two important ways. First, the role of criminal justice is restricted officially to persuading people to abide by a limited range of social values whose violation constitutes crime. Thus, although courteous behavior is desired of all citizens, rude behavior is of no official concern to criminal justice unless it violates the criminal law. Dealing with noncriminal rude behavior is primarily the responsibility of the family. Second, criminal justice is generally society’s “last line of defense” against people who refuse to abide by dominant social values and commit crimes. Usually, society turns to criminal justice only after other institutions of social control have failed.

THINKING CRITICALLY

1. Given what you know about crime in the United States, do you think that the criminal justice system is a strong institution of social control? Why?
2. Do you think that other institutions such as the family, schools, and organized religion are better institutions of social control than the criminal justice system? If so, which ones? Why?

Criminal Justice: The System

Criminal justice in the United States is administered by a loose confederation of more than 50,000 agencies of federal, state, and local governments. Those agencies consist of the police, the courts, and corrections. Together they are commonly referred to as the *criminal justice system*. Although there are differences in the ways the criminal justice system operates in different jurisdictions, there are also similarities. The term **jurisdiction**, as used here, means a politically defined geographical area (e.g., a city, a county, a state, or a nation).

The following paragraphs provide a brief overview of a typical criminal justice response to criminal behavior. Figure 1.1 is a graphic representation of the process. It includes the variations for petty offenses, **misdemeanors** (less serious crimes), **felonies** (serious crimes), and juvenile offenses. Later chapters of this book provide a more detailed examination of the criminal justice response to crime and delinquency.

Police

The criminal justice response to crime begins when a crime is reported to the police or, far less often, when the police themselves discover that a crime has been committed. Sometimes, solving the crime is easy—the victim or a witness knows the perpetrator or where to find him or her. Often, an arrest supported by witness statements and crime scene evidence is sufficient to close a case, especially with a less serious crime. More often, though, the police must conduct an in-depth investigation to determine what happened in a particular crime. Even when the police start with a known crime or a cooperative victim or witness, the investigation can be lengthy and difficult.

If police investigation of the crime is successful, a suspect is arrested. An **arrest** is the seizing and detaining of a person by lawful authority. After an arrest has been made, the suspect is brought to the police station to be booked. **Booking** is the administrative recording of the arrest. It typically involves entering the suspect's name, the charge, and perhaps the suspect's fingerprints and/or photograph in the police blotter.

Courts

Soon after a suspect has been arrested and booked, a prosecutor reviews the facts of the case and the available evidence. Sometimes, a prosecutor reviews the case before arrest. The prosecutor decides whether to charge the suspect with a crime or crimes. If no charges are filed, the suspect must be released.

Pretrial Stages After the charge or charges have been filed, the suspect, who is now the **defendant**, is brought before a lower court judge for an initial appearance.



Confidence in the Criminal Justice System

In a 2018 public opinion poll, 22% of Americans responded they had a “great deal” (9%) or “quite a lot” (13%) of confidence in the criminal justice system, 41% had “some” confidence, 34% had “very little” confidence, 2% had no (“none”) confidence, and 1% had no opinion.

Source: Gallup, “Confidence in Institutions.” Accessed February 13, 2019, <https://news.gallup.com/poll/1597/confidence-institutions.aspx>.

jurisdiction A politically defined geographical area. The right or authority of a justice agency to act with regard to a particular subject matter, territory, or person. The authority of a court to hear and decide cases.

misdemeanor A less serious crime generally punishable by a fine or by incarceration in jail for not more than 1 year.

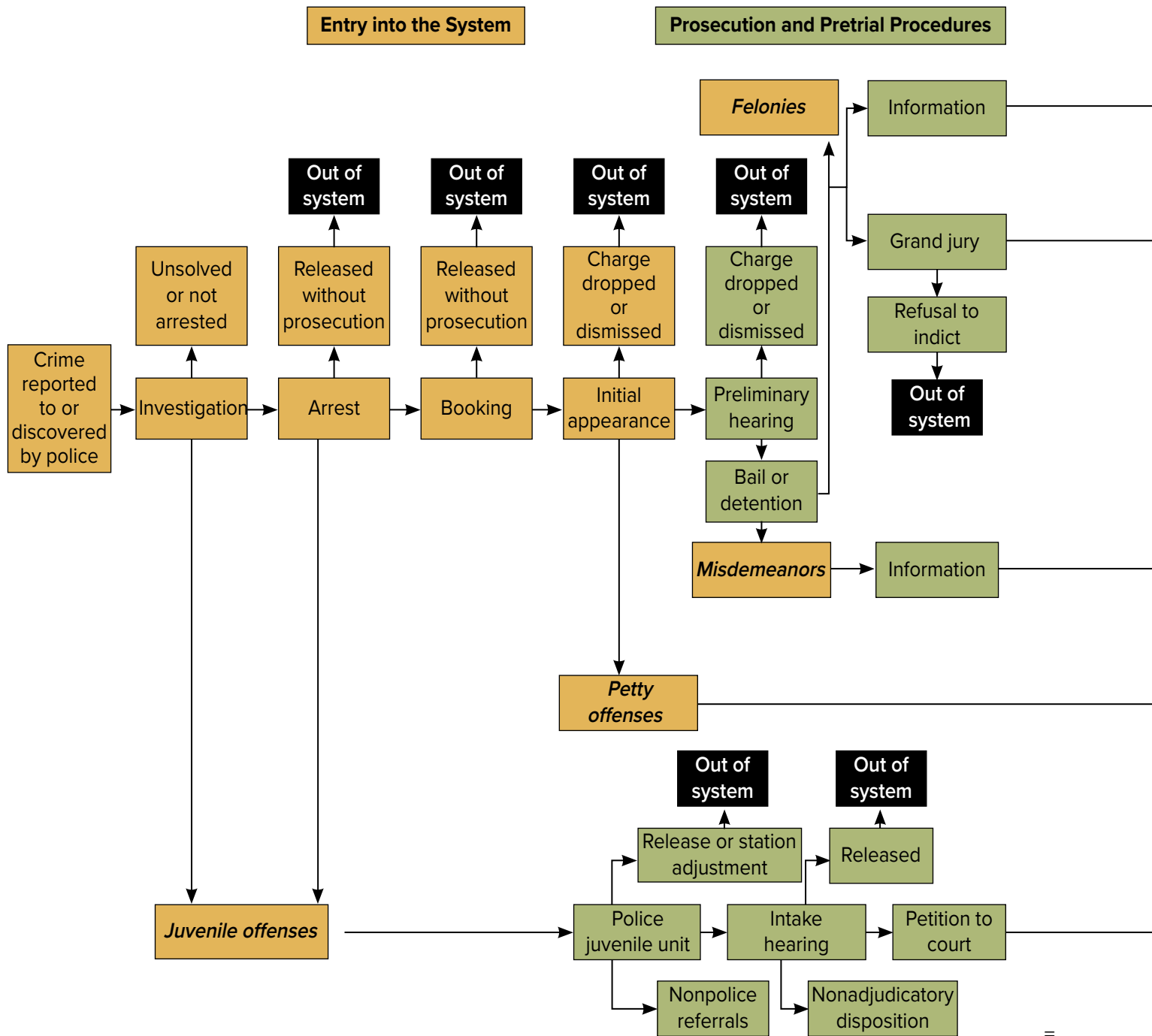
felony A serious offense punishable by confinement in prison for more than 1 year or by death.

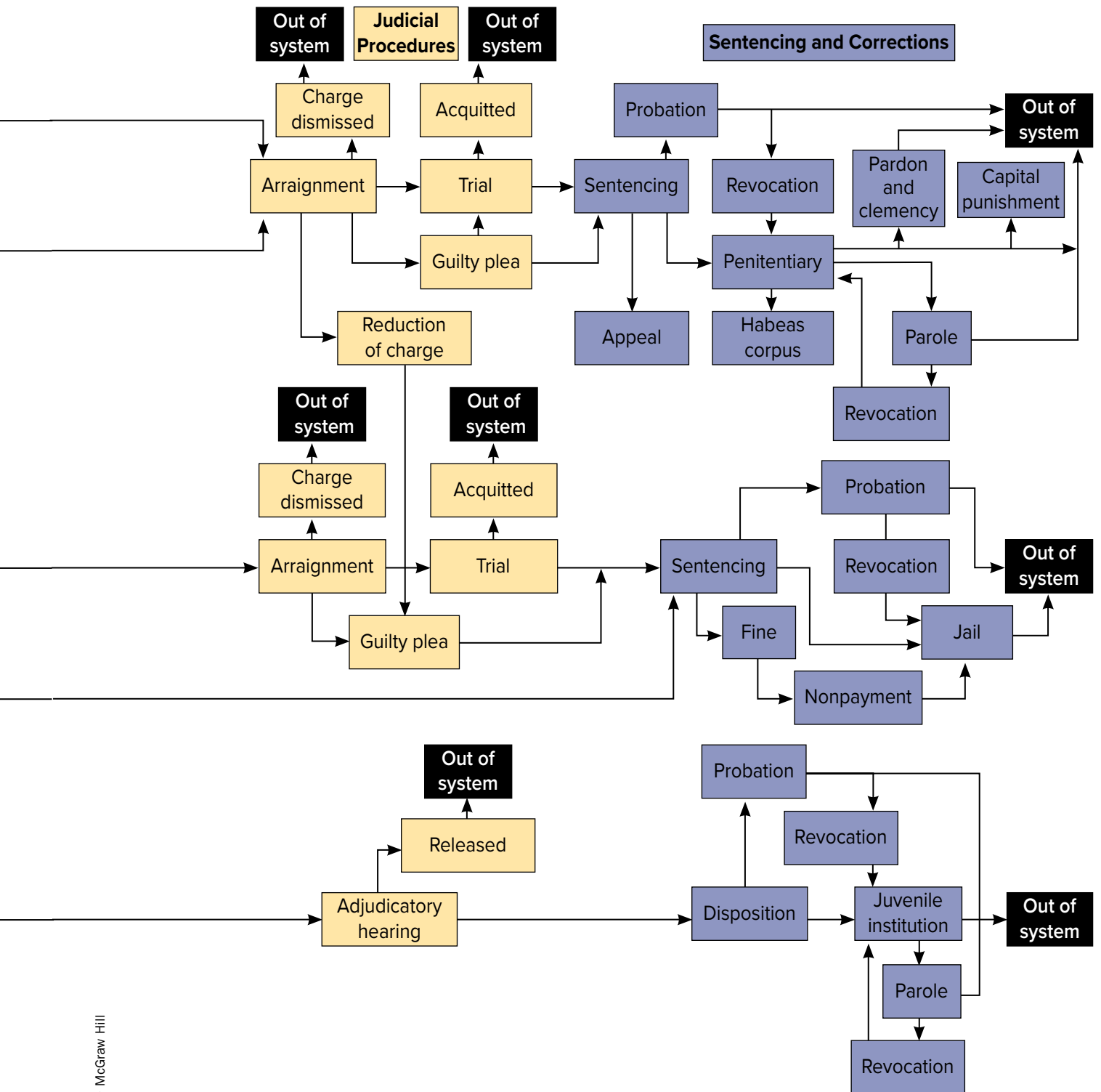
arrest The seizing or the taking of a person into custody by lawful authority, either actual physical custody, as when a suspect is handcuffed by a police officer, or constructive custody, as when a person peacefully submits to a police officer's control.

booking The administrative recording of an arrest. Typically, the suspect's name, the charge(s) for which the person was arrested, and perhaps the suspect's fingerprints or photograph are entered in the police blotter.

defendant A person against whom a legal action is brought, a warrant is issued, or an indictment is found.

FIGURE 1.1 Overview of the Criminal Justice System





At the **initial appearance**, the defendant is given formal notice of the charge or charges against him or her and advised of his or her constitutional rights (e.g., the right to counsel). In the case of a misdemeanor or an ordinance violation, a **summary trial** (an immediate trial without a jury) may be held. In the case of a felony, a hearing is held to determine whether the defendant should be released or whether there is probable cause to hold the defendant for a preliminary hearing. **Probable cause** is a standard of proof that requires trustworthy evidence sufficient to make a reasonable person believe that, more likely than not, the proposed action is justified. If the suspect is to be held for a preliminary hearing, bail is set if the judge believes release on bail is appropriate. **Bail**, usually a monetary guarantee deposited with the court, is meant to ensure that the defendant will appear at a later stage in the criminal justice process. In states that do not utilize preliminary hearings, an arraignment date is scheduled at the initial appearance.

In about half of all states, a preliminary hearing follows the initial appearance. Preliminary hearings are used only in felony cases. The purpose of the **preliminary hearing** is for a judge to determine whether there is probable cause to believe that the defendant committed the crime or crimes with which he or she is charged. If the judge finds probable cause, the defendant is bound over for possible indictment in a state with grand juries or for arraignment on a document called an *information* (see below) in a state without grand juries.

Grand juries are involved in felony prosecutions in about half the states. A **grand jury** is a group of citizens who meet in closed sessions for a specified period to investigate charges coming from preliminary hearings and to fulfill other responsibilities. Thus, a primary purpose of the grand jury is to determine whether there is probable cause to believe that the accused committed the crime or crimes with which the prosecutor has charged the person. The grand jury can either indict a suspect or issue a “true bill,” or fail to indict a suspect or “issue no bill.” If the grand jury fails to indict or issues no bill, the prosecution must be dropped. In states that do not use grand juries, prosecutors charge defendants with a document called an *information*. An **information** outlines the formal charge or charges, the law or laws that have been violated, and the evidence to support the charge or charges.

Once an indictment or information is filed with the trial court, the defendant is scheduled for arraignment. The primary purpose of **arraignment** is to hear the formal information or indictment and to allow the defendant to enter a plea. About 95% of criminal defendants plead guilty to the charges against them in an arrangement called *plea bargaining*. **Plea bargaining** is the practice whereby the prosecutor, the defense attorney, the defendant, and, in many jurisdictions, the judge agree on a specific sentence to be imposed if the accused pleads guilty to an agreed-on charge or charges instead of going to trial.

Trial If a defendant pleads not guilty or not guilty by reason of insanity, a trial date is set. Although all criminal defendants have a constitutional right to a trial (when imprisonment for 6 months or more is a possible outcome), only about 5% of all criminal cases are disposed of by trial. Approximately 2% of criminal cases involve jury trials. The remaining cases that are not resolved through plea bargaining are decided by a judge in a **bench trial** (without a jury). Thus, approximately 95% of all criminal cases are resolved through plea bargaining, about 2% through jury trials, and about 3% through bench trials. (See Figure 1.2.) In most jurisdictions, the choice between a jury trial and a bench trial is the defendant’s to make.

If the judge or the jury finds the defendant guilty as charged, the judge begins to consider a sentence. In some jurisdictions, the jury participates to varying degrees in the sentencing process. The degree of jury participation depends on the

initial appearance A pretrial stage in which a defendant is brought before a lower court to be given notice of the charge(s) and advised of her or his constitutional rights.

summary trial A trial before a judge without a jury.

probable cause The amount of proof necessary for a reasonably intelligent person to believe that a crime has been committed or that items connected with criminal activity can be found in a particular place. It is the standard of proof needed to conduct a search or to make an arrest.

bail Usually a monetary guarantee deposited with the court that is supposed to ensure that the suspect or defendant will appear at a later stage in the criminal justice process.

preliminary hearing A pretrial stage used in about one-half of all states and only in felony cases. Its purpose is for a judge to determine whether there is probable cause to support the charge or charges imposed by the prosecutor.

grand jury Generally a group of 12 to 23 citizens who meet in closed sessions to investigate charges coming from preliminary hearings or to engage in other responsibilities. A primary purpose of the grand jury is to determine whether there is probable cause to believe that the accused committed the crime or crimes.

information A document that outlines the formal charge(s) against a suspect, the law(s) that have been violated, and the evidence to support the charge(s).

arraignment A pretrial stage; its primary purpose is to hear the formal information or indictment and to allow the defendant to enter a plea.

plea bargaining The practice whereby the prosecutor, the defense attorney, the defendant, and—in many jurisdictions—the judge agree on a specific sentence to be imposed if the accused pleads guilty to an agreed-upon charge or charges instead of going to trial.

bench trial A trial before a judge without a jury.

jurisdiction and the crime. If the judge or jury finds the defendant not guilty, the defendant is released from the jurisdiction of the court and becomes a free person.

Judges cannot impose just any sentence. There are many factors that restrict sentencing decisions. The U.S. Constitution's Eighth Amendment prohibiting cruel and unusual punishments and various statutory provisions limit judges. Judges are guided by prevailing philosophical rationales, by organizational considerations, and by presentence investigation reports. They also are influenced by their own personal characteristics. Presentence investigation reports are used in the federal system and in the majority of states to help judges determine appropriate sentences.

Currently, five general types of punishment are in use in the United States: fines, probation, intermediate punishments, imprisonment, and death. Intermediate punishments are more restrictive than probation but less restrictive and less costly than imprisonment. **Probation** is a sentence in which the offender is retained in the community under the supervision of a probation agency rather than being incarcerated. Probation is the most frequently imposed criminal sentence in the United States. As long as a judge imposes one or a combination of the five punishments and the sentence length and type are within statutory limits, the judge is free to set any sentence.

Appeals Defendants who are found guilty can appeal their convictions either on legal grounds or on constitutional grounds. Examples of legal grounds include defects in jury selection, improper admission of evidence at trial, and mistaken interpretations of law. Constitutional grounds include illegal search and seizure, improper questioning of the defendant by the police, identification of the defendant through a defective police lineup, and incompetent assistance of counsel.

The appellate court can *affirm* the verdict of the lower court and let it stand; modify the verdict of the lower court without totally reversing it; reverse the verdict of the lower court, which requires no further court action; or reverse the decision and *remand*, or return, the case to the court of original jurisdiction for either a retrial or resentencing.

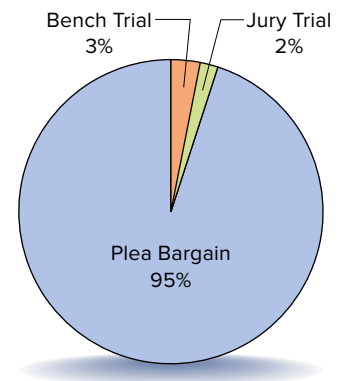
Corrections

A defendant sentenced to prison may be eligible for parole (in those jurisdictions that grant parole) after serving a portion of his or her sentence. **Parole** is the conditional release of prisoners before they have served their full sentences. Generally, the decision to grant parole is made by a parole board. Once offenders have served their sentences, they are released from criminal justice authority.

THINKING CRITICALLY

1. Do you think the criminal justice system “works” in the United States? Why or why not?
2. What improvements do you think should be made to the criminal justice system?
3. Do you think judges should be limited in the sentences they are allowed to impose? Why or why not?

FIGURE 1.2 Criminal Case Dispositions



probation A sentence in which the offender, rather than being incarcerated, is retained in the community under the supervision of a probation agency and required to abide by certain rules and conditions to avoid incarceration.

parole A method of prison release whereby inmates are conditionally released at the discretion of a board or other authority before having completed their entire sentences; can also refer to the community supervision received upon release.

Criminal Justice: The Nonsystem

As noted earlier, the many police, court, and corrections agencies of the federal, state, and local governments, taken together, are commonly referred to as the

Careers in Criminal Justice

Law Enforcement/Security

BATF Agent
Border Patrol Agent
Campus Police Officer
Crime Prevention Specialist
Criminal Investigator
Criminal Profiler
Customs Officer
Deputy Sheriff
Deputy U.S. Marshal
Drug Enforcement Officer
Environmental Protection Agent
FBI Special Agent
Federal Agency Investigator
Fingerprint Technician
Forensic Scientist
Highway Patrol Officer
Immigration and Naturalization Service Officer
Insurance Fraud Investigator
Laboratory Technician
Loss Prevention Officer
Military Police Officer
Park Ranger
Police Administrator
Police Dispatcher
Police Officer
Polygraph Examiner
Postal Inspector
Private Investigator
Secret Service Agent
State Trooper

Courts/Legal

Arbitrator
Attorney General
Bailiff
Clerk of Court
Court Interpreter
Court Reporter
District Attorney
Judge
Jury Assignment Commissioner
Jury Coordinator
Juvenile Magistrate
Law Clerk
Law Librarian
Legal Researcher
Mediator
Paralegal
Public Defender
Public Information Officer
Trial Court Administrator
Victim Advocate

Teaching/Research

Agency Researcher
Community College, College, or University Lecturer or Professor

Corrections/Rehabilitation

Activity Therapy Administrator
Business Manager
Case Manager
Chaplain
Chemical Dependency Manager
Child Care Worker
Children's Services Counselor
Classification Officer

Client Service Coordinator
Clinical Social Worker
Community Liaison Officer
Correctional Officer
Dietary Officer
Drug Court Coordinator
Field Administrator
Fugitive Apprehension Officer
Home Detention Supervisor
Human Services Counselor
Job Placement Officer
Juvenile Detention Officer
Juvenile Probation Officer
Mental Health Clinician
Parole/Probation Officer
Presentence Investigator
Prison Industries Superintendent
Program Officer/Specialist
Programmer/Analyst
Psychologist
Recreation Coordinator
Rehabilitation Counselor
Researcher
Residence Supervisor
Sex Offender Therapist
Social Worker
Statistician
Substance Abuse Counselor
Teacher
Vocational Instructor
Warden or Superintendent
Youth Service Worker/Coordinator
Youth Supervisor

system A smoothly operating set of arrangements and institutions directed toward the achievement of common goals.

criminal justice system. However, the depiction of criminal justice—or, more specifically, of the interrelationships and inner workings of its various components—as a “system” may be inappropriate and misleading for at least two reasons.

First, there is no single “criminal justice system” in the United States. Rather, as noted earlier, there is a loose confederation of many independent criminal justice agencies at all levels of government. This loose confederation is spread throughout the country with different, sometimes overlapping, jurisdictions. Although there are some similarities among many of those agencies, there are also significant differences. The only requirement they all share, a requirement that is the basis for their similarities, is that they follow procedures permitted by the U.S. Constitution.

Second, if a **system** is thought of as a smoothly operating set of arrangements and institutions directed toward the achievement of common goals, one is hard-pressed to call the operation of criminal justice in the United States a system. Instead, because

there is considerable conflict and confusion among different agencies of criminal justice, a more accurate representation may be that of a criminal justice “nonsystem.”

For example, police commonly complain that criminal offenders who have been arrested after weeks or months of time-consuming and costly investigation are not prosecuted or are not prosecuted vigorously enough. Police often maintain that prosecutors are not working with them or are making their jobs more difficult than necessary. Prosecutors, however, often gripe about shoddy police work. Sometimes, they say that they are unable to prosecute a crime because of procedural errors committed by the police during the investigation or the arrest.

Even when a criminal offender is prosecuted, convicted, and sentenced to prison, police often argue that the sentence is not severe enough to fit the seriousness of the crime, or they complain when the offender is released from prison after serving only a portion of his or her sentence. In such situations, police frequently argue that the courts or the correctional agencies are undermining their efforts by putting criminals back on the streets too soon.

Conflicts between the courts and corrections sometimes occur when judges continue to impose prison sentences on criminal offenders, especially so-called petty offenders, even though the judges know that the prisons are under court orders to reduce overcrowding.

In addition, there is a mostly separate process for juvenile offenders. Criminal justice officials frequently complained that their jobs were made more difficult because of the practice, which used to be common in many states, of sealing juvenile court records. That practice withheld juvenile court records from the police, prosecutors, and judges even though the records may have been relevant and helpful in making arrests, prosecuting criminal cases, and determining appropriate sentences. Today, formerly confidential juvenile court records are made available to a wide variety of individuals, including prosecutors, law enforcement officers, social service personnel, school authorities, victims, and the public. However, access is not necessarily unlimited or automatic. Access still may be restricted to certain parts of the record and may require a court order.⁹ A rationale for concealing juvenile court records is to prevent, as much as possible, the labeling of juvenile offenders as delinquents, which could make them delinquents. (Labeling theory is discussed in Chapter 3.)

In short, rather than operating together as a system, agencies of criminal justice in the United States generally operate independently of one another, each agency often causing problems for the others. Such conflicts may not be entirely undesirable, however, because they occur in a context of checks and balances by which the courts ensure that the law is enforced according to constitutional principles.

THINKING CRITICALLY

1. What do you think are some of the positive aspects of having a criminal justice nonsystem?
2. What do you think are some of the disadvantages of having a criminal justice nonsystem?

Two Models of Criminal Justice

In his influential 1968 book entitled *The Limits of the Criminal Sanction*, legal scholar Herbert Packer describes the criminal justice process in the United States as the outcome of competition between two value systems.¹⁰ Those two value systems, which represent two ends of a value continuum, are the basis for two

myth

The agencies that administer criminal justice in the United States form a unified system: the criminal justice system.

fact

There is no single “criminal justice system” in the United States. Instead, there is a loose confederation of many independent criminal justice agencies at all levels of government. Moreover, instead of operating together as a system, agencies of criminal justice in the United States interact but generally operate independently of one another, each agency often causing problems for the others.

FYI

Criminal Justice System Needs Improvement

A 2018 national survey found that 76% of registered voters believe the U.S. criminal justice system needs significant improvements, while only 21% believe “it’s working pretty well as it is.” Sixty-eight percent of Republicans, 78% of Independents, 80% of Democrats, and 80% of women believe the system needs significant improvements.

Source: Robert Blizard, “National Poll Results,” Public Opinion Strategies, January 25, 2018, accessed June 3, 2019, <https://www.politico.com/f/?id=00000161-2ccc-da2c-a963-ef-ff82be0001>.

crime control model One of Packer's two models of the criminal justice process. Politically, it reflects traditional conservative values. In this model, the control of criminal behavior is the most important function of criminal justice.

due process model One of Packer's two models of the criminal justice process. Politically, it embodies traditional liberal values. In this model, the principal goal of criminal justice is at least as much to protect the innocent as it is to convict the guilty.

models of the operation of criminal justice—the crime control model and the due process model. Figure 1.3 depicts this continuum. From a political standpoint, the **crime control model** reflects traditional conservative political values, while the **due process model** embodies traditional liberal political values.¹¹ Consequently, when politically conservative values are dominant in society, as they have been for most of the past 50 years, the principles and policies of the crime control model seem to dominate the operation of criminal justice. During more politically liberal periods, such as the 1960s and 1970s, and the eight years of the Obama administration (2008–2016), the principles and policies of the due process model seem to direct criminal justice activity.

The models are ideal types, neither of which corresponds exactly to the actual day-to-day practice of criminal justice. Rather, they both provide a convenient way to understand and discuss the operation of criminal justice in the United States. In practice, the criminal justice process represents a series of conflicts and compromises between the value systems of the two models. In the following sections, we describe Packer's two models in detail.

FIGURE 1.3 Two Models of the Criminal Justice Process



The Crime Control Model

In the crime control model, the control of criminal behavior is by far the most important function of criminal justice. Although the means by which crime is controlled are important in this view (illegal means are not advocated), they are less important than the ultimate goal of control. Consequently, the primary focus of this model is on the efficiency of the criminal justice process. Advocates of the crime control model want to make the process more efficient—to move cases through the process as quickly as possible and to bring them to a close. Packer characterizes the crime control model as “assembly-line justice.” Bohm (one of your authors) has called it “McJustice.”¹² To achieve “quick closure” in the processing of cases, a premium is placed on speed and finality. Speed requires that cases be handled informally and uniformly; finality depends on minimizing occasions for challenge, that is, appeals.

To appreciate the assembly-line or McJustice metaphors used by Packer and Bohm and to understand how treating cases uniformly speeds up the process and makes it more efficient, consider the way that McDonald's sells billions of hamburgers. When you order a Big Mac from McDonald's, you know exactly what you are going to get. All Big Macs are the same because they are made uniformly. Moreover, you can get a Big Mac in a matter of seconds most of the time. However, what happens when you order something different or something not already prepared, such as a hamburger with ketchup only? Your order is taken, and you are asked to stand to the side because your special order will take a few minutes. Your special order has slowed down the assembly line and reduced efficiency. This happens in criminal justice, too! If defendants ask for something special, such as a trial, the assembly line is slowed and efficiency is reduced.

As described in Chapter 8, even when criminal justice is operating at its best, it is a slow process. The time from arrest to final case disposition can typically be

measured in weeks or months. If defendants opt for a jury trial, which is their right in most felony cases, the cases are handled formally and are treated as unique; no two cases are the same in their circumstances or in the way they are handled. If defendants are not satisfied with the outcome of their trials, then they have the right to appeal. Appeals may delay by years the final resolution of cases.

To increase efficiency—meaning speed and finality—crime control advocates prefer plea bargaining. As described previously and as you will see in Chapter 8, plea bargaining is an informal process that is used instead of trial. Plea bargains can be offered and accepted in a relatively short time. Also, cases are handled uniformly because the mechanics of a plea bargain are basically the same; only the substance of the deal differs. In addition, with successful plea bargains, there is no opportunity for challenge; there are no appeals. Thus, plea bargaining is the perfect mechanism for achieving the primary focus of the crime control model: efficiency.

The key to the operation of the crime control model is “a presumption of guilt.” In other words, advocates of this model assume that if the police have expended the time and effort to arrest a suspect and the prosecutor has formally charged the suspect with a crime, then the suspect must be guilty. Why else would police arrest and prosecutors charge? Although the answers to that question are many (see the discussions in Chapters 7 and 8 of the extralegal factors that influence police and prosecutorial behavior), the fact remains that a presumption of guilt is accurate most of the time. That is, most people who are arrested and charged with a crime or crimes are, in fact, guilty. A problem—but not a significant one for crime control advocates—is that a presumption of guilt is not accurate all the time; miscarriages of justice do occur (see the discussion in Chapter 4). An equally important problem is that a presumption of guilt goes against one of the oldest and most cherished principles of American criminal justice—that a person is considered innocent until proven guilty.

Reduced to its barest essentials and operating at its highest level of efficiency, the crime control model consists of an administrative fact-finding process with two possible outcomes: a suspect’s exoneration or the suspect’s guilty plea.

The Due Process Model

Advocates of the due process model, by contrast, reject the informal fact-finding process as definitive of factual guilt. They insist instead on formal, adjudicative fact-finding processes in which cases against suspects are heard publicly by impartial trial courts. In the due process model, moreover, the factual guilt of suspects is not determined until the suspects have had a full opportunity to discredit the charges against them. For those reasons, Packer characterizes the due process model as “obstacle-course justice.”

What motivates this careful and deliberate approach to the administration of justice is the realization that human beings sometimes make mistakes. The police sometimes arrest the wrong person, and prosecutors sometimes charge the wrong



Gary Ridgway, the so-called Green River Killer, was allowed to plead guilty to 48 counts of murder in exchange for helping authorities find some of his victims’ remains. The plea bargain allowed him to escape the death penalty. He was sentenced to 48 consecutive life sentences without parole instead. *Was the plea bargain in this case justified? Why or why not?*

doctrine of legal guilt The principle that people are not to be held guilty of crimes merely on a showing, based on reliable evidence, that in all probability they did in fact do what they are accused of doing. Legal guilt results only when factual guilt is determined in a procedurally regular fashion, as in a criminal trial, and when the procedural rules designed to protect suspects and defendants and to safeguard the integrity of the process are employed.

person. Thus, contrary to the crime control model, the demand for finality is low in the due process model, and the goal is at least as much to protect the innocent as it is to convict the guilty. Indeed, for due process model advocates, it is better to let a guilty person go free than it is to wrongly convict and punish an innocent person.

The due process model is based on the doctrine of legal guilt and the presumption of innocence. According to the **doctrine of legal guilt**, people are not to be held guilty of crimes merely on a showing, based on reliable evidence, that in all probability they did in fact do what they are accused of doing. In other words, it is not enough that people are factually guilty in the due process model; they must also be legally guilty. Legal guilt results only when factual guilt is determined in a procedurally regular fashion, as in a criminal trial, and when the procedural rules, or due process rights, designed to protect suspects and defendants and to safeguard the integrity of the process are employed. The conditions of legal guilt—that is, procedural, or due process, rights—are described in Chapter 4. They include:

- Freedom from unreasonable searches and seizures.
- Protection against double jeopardy.
- Protection against compelled self-incrimination.
- A speedy and public trial.
- An impartial jury of the state and district where the crime occurred.
- Notice of the nature and cause of the accusation.
- The right to confront opposing witnesses.
- Compulsory process for obtaining favorable witnesses.
- The right to counsel.
- The prohibition of cruel and unusual punishment.

In short, in the due process model, factual guilt is not enough. For people to be found guilty of crimes, they must be found *both* factually and legally guilty.

Due process advocates champion this obstacle-course model of justice because they are skeptical about the ideal of equality on which U.S. criminal justice is supposedly based. They recognize that there can be no equal justice where the kind of trial a person gets, or whether he or she gets a trial at all, depends substantially on how much money that person has. It is assumed that in an adversarial system of justice (as described in Chapter 8 and employed in the United States), an effective defense is largely a function of the resources that can be mustered on behalf of the accused. It also is assumed that there are gross inequalities in the financial means of criminal defendants. Most criminal defendants are indigent or poor, and because of their indigence, they are frequently denied an effective defense. Although procedural safeguards, or conditions of legal guilt, cannot by themselves correct the inequity in resources, they do provide indigent defendants, at least theoretically, with a better chance for justice than they would receive without them.

Fundamentally, the due process model defends the ideal of personal freedom and its protection. The model rests on the assumption that preventing tyranny by the government and its agents is the most important function of the criminal justice process.

Crime Control versus Due Process

As noted earlier, the model that dominates criminal justice policy in the United States at any particular time depends on the political climate. Until the election of Barack Obama—America’s first African American president—in 2008, the United States was in the midst of a prolonged period—beginning in the

mid-1970s—during which politically conservative values dominated the practice of criminal and juvenile justice. Thus, it should come as no surprise that the crime control model of criminal justice more closely resembled the actual practice of criminal and juvenile justice in the United States for the roughly three-and-one-half decades prior to Obama's first election. Before the mid-1970s, at the time Packer wrote and published his book, politically liberal values and, thus, the principles and policies of the due process model directed the operation of criminal and juvenile justice. However, because neither model ever completely represents the practices of criminal and juvenile justice, many elements of the crime control model were evident prior to the mid-1970s, as were many elements of the due process model during the next three-and-one-half decades.

During Obama's eight years in office, his administration's liberal political values seemed to tilt criminal justice policy toward principles and policies associated with the due process model of criminal justice. That said, any transformations made during Obama's eight years were relatively modest because, for one thing, criminal justice policies that have been entrenched for decades are hard to change, and, for another, the U.S. Supreme Court, arguably the key institution when it comes to criminal justice policy, had a conservative majority that was not particularly sympathetic to Obama's goals. So even though there was some shift to due process model policies and practices during the Obama administration, many elements of the crime control model remained.

With the 2016 election of Donald Trump, whatever Obama administration transformations in criminal justice policy toward the due process model are likely to be rolled back as conservative political values and the crime control model of criminal justice return to prominence, as Packer's model of criminal justice predicts. If President Trump has the opportunity to appoint two more conservative justices to replace the elderly, liberal-leaning Justices Ginsburg and Breyer following his appointment and the Senate's confirmation of Justices Neil Gorsuch and Brett Kavanaugh, politically conservative values and crime control model principles and policies likely will guide criminal justice policy in the United States for decades to come.

THINKING CRITICALLY

1. What do you think are some of the fundamental problems with the crime control model? What are the benefits of this model?
2. What do you think are some of the fundamental problems with the due process model? What are the benefits of this model?

Costs of Criminal Justice

Each year in the United States, an enormous amount of money is spent on criminal justice at the federal, state, and local levels. In 2016 (the latest year for which figures were available), a total of \$284 billion was spent on civil and criminal justice. Nearly one-half of the \$284 billion was spent on police protection, about 20% on judicial and legal services, and approximately 30% on corrections. Table 1.3 shows the breakdown of spending among the three main segments of the criminal justice system and among the federal, state, and local levels. The \$284 billion spent on civil and criminal justice in 2016 represents approximately \$880 for every resident of the United States (\$440 for police, \$176 for judicial and legal services, and \$264 for corrections). The \$284 billion was an increase of about 7% from 2012 and approximately 10% from 2009.¹³

TABLE 1.3 Costs of Criminal Justice

In 2016, federal, state, and local governments spent \$284 billion in direct expenditures for the criminal and civil justice systems.

POLICE PROTECTION	In Millions (\$)
68% Local	94,207
11% States	15,003
21% Federal	28,886
100%	138,096
JUDICIAL/LEGAL SERVICES	
38% Local	23,431
37% States	22,826
25% Federal	14,892
100%	61,149
CORRECTIONS	
33% Local	28,977
59% States	49,040
8% Federal	6,952
100%	84,969

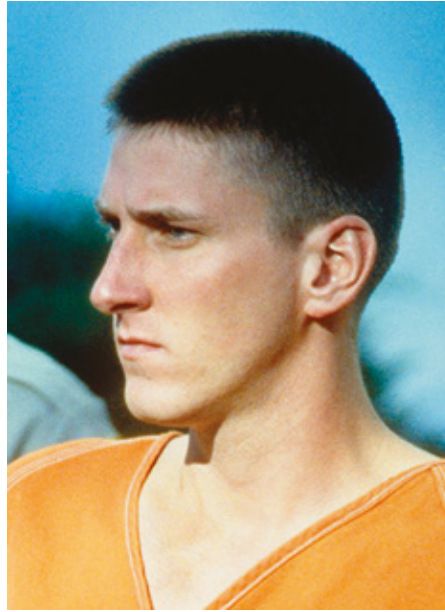
Note: Detail may not add to 100% because of rounding.

Source: Shelley Hyland, "Justice Expenditure and Employment Extracts, 2016 (preliminary)," Bureau of Justice Statistics, U.S. Department of Justice, <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6728>, filename jeee16t01.csv (date of version: 11/7/2019).

Criminal justice is primarily a state and local function; state and local governments spent about 80% of the 2016 total. Note that state and local governments share the costs of criminal justice by making police protection primarily a local function and corrections primarily a state function. In 2016, local governments spent 68% of the total spent on police protection, while state governments spent 58% of the total spent on corrections. The expense of judicial and legal services was evenly divided between state and local governments, with each level of government spending about 40% of the total on those services.

Although the bulk of government spending on criminal justice is at the state and local levels, the federal government uses its expenditures strategically to influence criminal justice policy at the other levels of government. For example, the federal government develops and tests new approaches to criminal justice and crime control. It then encourages state and local criminal justice agencies to duplicate effective programs and practices by awarding monetary grants to interested and willing agencies. Grants also are awarded to state and local criminal justice agencies to implement programs that address the federal government's crime control priorities, such as its emphasis on violent and drug-related crimes. In 2016, the federal government spent about 20% of the total expenditures on criminal and civil justice.

Also noteworthy is that despite the billions of dollars spent on criminal and civil justice at the state and local levels, as a percentage of all government expenditures, the amount spent on criminal justice represents only a tiny fraction—about 6% (2.7% for police protection, about 2.2% for corrections, and 1.3% for judicial



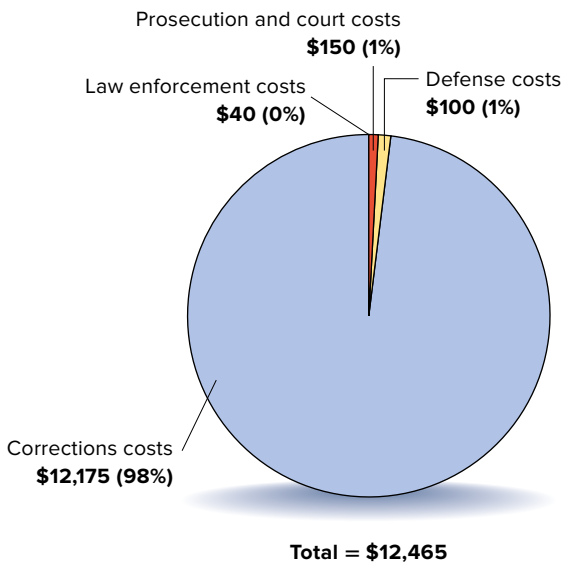
The state of Florida reportedly spent \$10 million to administer justice to serial murderer Ted Bundy (left) in 1989, and the federal government spent more than \$100 million to execute mass murderer Timothy McVeigh (right) in 2001. *Were the executions worth the expense? Why or why not?*

and legal services). In other words, only about 6 cents of every state and local tax dollar are spent on criminal justice. Include federal tax dollars, and only about 4 cents of every tax dollar are spent on criminal justice—an amount that has remained relatively unchanged for approximately 25 years. Thus, compared with expenditures on other government services, such as social insurance, national defense, international relations, interest on debt at the federal level, public welfare, education, health and hospitals, and interest on debt at the state and local levels, spending on criminal justice remains a relatively low priority—a point apparently not missed by the American public.¹⁴

For at least four decades, public opinion polls have shown that more than half of all Americans believe that too little money is spent on crime control. Very few people think that too much is being spent.¹⁵ What is not clear, however, because no data are available, is whether those people who believe more money should be spent to fight crime are willing to pay higher taxes to provide that money.

The data presented so far in this section provide a general overview of the aggregate costs of criminal justice in the United States. However, they do not reveal the expenses of individual-level justice, which vary greatly. On the one hand, administering justice to people who commit capital or death-eligible crimes costs, on average, between \$1.4 and \$7 million per case (the cost of the entire process in 2015 dollars); extraordinary cases can cost much more. For example, the state of Florida reportedly spent \$10 million to administer justice to serial murderer Ted Bundy in 1989, and the federal government spent more than \$100 million to execute mass murderer Timothy McVeigh in 2001.¹⁶

On the other hand, the routine crimes processed daily cost much less. A better idea of the costs of justice in more typical cases comes from an examination of the costs of each stage of the local criminal justice process. The results of such a study are presented in the following narrative.¹⁷ A 49-year-old white male—let's call him Joe—was arrested in Orlando, Florida, in October 2011, for possession of cocaine. According to the arresting officer's report, Joe was observed running a stop sign. The officer pulled him over and asked for his driver's license. While doing so, the officer noticed 40 to 50 boxes of cigar

FIGURE 1.4 Total Costs of the Orlando, Florida, Cocaine Possession Case by Specific Criminal Justice Functions

packs on the passenger floorboard of the vehicle. The officer asked him if the cigar packs were his, and he said they were. The officer then asked Joe to step out of his car, and he complied. The officer asked Joe whether he had anything illegal on his person such as guns and drugs, and Joe stated, “No.” The officer asked Joe if he could search him, and Joe consented. The officer found no contraband on Joe’s person. The officer then conducted a computer check of Joe’s license, and it was valid. The officer returned Joe’s license and told him that he was not going to issue a traffic citation. The officer then asked Joe whether there was anything illegal in his vehicle such as guns and drugs, and Joe stated, “No.” The officer asked Joe if he could search his vehicle, and Joe stated, “Yeah, that’s fine.” The officer opened a box of cigars and found a square hard white substance that, based on the officer’s training and work experience, appeared to be crack cocaine. The officer secured Joe with handcuffs and continued to search the vehicle. The officer lifted a stack of papers on the front passenger seat and discovered four pieces of a hard white substance that also appeared to be crack cocaine. The officer field-tested a sample of the suspected drug, and the test revealed that the substance was cocaine. The officer placed Joe under

arrest for cocaine possession. Joe requested that his parents be contacted so they could pick up his car. Joe’s father responded to the scene and took possession of the car. The officer transported Joe to the county jail for booking. Joe subsequently pled guilty and was sentenced to 4 months in jail. The jail sentence was rather modest considering the incident was Joe’s 33rd offense on his lengthy rap sheet, which included arrests for burglary, grand theft, reckless driving, robbery, criminal mischief, possession of drug paraphernalia, dealing in stolen property, contempt of court, and violation of probation. The criminal justice-related costs to society for this crime were approximately \$12,465. As shown in Figure 1.4, the bulk of the costs—98% of the total in this case—were incurred by corrections. The expenses to the police, defense, prosecution, and court were minor in comparison.

THINKING CRITICALLY

1. Do you think more money needs to be spent on criminal justice? Why or why not?
2. Were resources well spent in the case of the offender convicted of cocaine possession? Why or why not?

Myths About Crime and Criminal Justice

A major purpose of this book is to expose and correct misconceptions the American public has about crime and criminal justice. Much of the public’s understanding of crime and criminal justice is wrong; it is based on myths. **Myths** are “simplistic and distorted beliefs based upon emotion rather than rigorous analysis” or “at worst . . . dangerous falsifications.”¹⁸ More specifically, myths are “credible, dramatic, socially constructed representation[s] of perceived realities that people accept as permanent, fixed knowledge of reality while forgetting (if they were ever

myths Beliefs based on emotion rather than analysis.

aware of it) [their] tentative, imaginative, creative, and perhaps fictional qualities.”¹⁹ For example, during the Middle Ages in Europe, people commonly believed that guilt or innocence could be determined through *trial by ordeal*. The accused might be required to walk barefoot over hot coals, hold a piece of red-hot iron, or walk through fire. The absence of any injury was believed to be a sign from God that the person was innocent. Although we now may wonder how such a distorted and simplistic belief could have been taken as fact and used to determine a person’s guilt or innocence, people did not consider the belief a myth during the time that it was official practice. The lesson to be learned from this example is that a belief that is taken as fact at one time may in retrospect be viewed as a myth. In this book, we attempt to place such myths about crime and criminal justice in perspective.²⁰

Throughout this text, we present generally accepted beliefs about crime and the justice system that can be considered myths because they can be contradicted with facts. In some instances, it can be demonstrated that the perpetuation and acceptance of certain myths by the public, politicians, and criminal justice practitioners have contributed to the failure to significantly reduce predatory criminal behavior and to increase peace. It is also possible that acceptance of these myths as accurate representations of reality or as facts results in the waste of billions of dollars in the battle against crime.



During the Middle Ages, Holy Roman Emperor Otto III married the King of Aragon’s daughter, who fell in love with a count of the court. When the count refused her advances, the emperor’s wife accused him of making an attempt on her honor. The scene shows the count’s wife attempting to prove his innocence by trial by fire (a red-hot rod in her hand). When she was not burned, the count’s innocence was proved and the emperor’s wife was burned alive for making the false accusation. *How could people believe that guilt or innocence could be proven in this way?*

SUMMARY

- 1. Describe how the type of crime routinely presented by the media compares with crime routinely committed.**

Crime presented by the media is usually more sensational than crime routinely committed.

- 2. Identify institutions of social control, and explain what makes criminal justice an institution of social control.**

Institutions of social control include the family, schools, organized religion, the media, the law, and criminal justice. Such institutions attempt to persuade people to abide by the dominant values of society. Criminal justice is restricted to persuading people to abide by a limited range of social values, the violation of which constitutes crime.

- 3. Summarize how the criminal justice system responds to crime.**

The typical criminal justice response to the commission of a crime involves the following: investigation, arrest (if the investigation is successful), booking, the formal charging of the suspect, an initial appearance, a preliminary hearing (for a felony), either indictment by a grand jury followed by arraignment or arraignment on an information, either a plea bargain or a trial, sentencing, possible appeal, and punishment (if the defendant is found guilty).

- 4. Explain why criminal justice in the United States is sometimes considered a nonsystem.**

Criminal justice in the United States is sometimes considered a nonsystem for two major reasons. First, there is no single system but, instead, a loose confederation of more than 50,000 agencies on federal, state, and local levels. Second, rather than being a smoothly operating set of arrangements and institutions, the agencies of the criminal justice system interact with one another but generally operate independently, often causing problems for one another.

- 5. Point out major differences between Packer's crime control and due process models.**

From a political standpoint, the crime control model of criminal justice reflects traditional conservative values, while the due process model embodies traditional liberal values. In the crime control model, the control of criminal behavior is by far the most important function of criminal justice. Consequently, the primary focus of this model is on efficiency in the operation of the criminal justice process. The goal of the due process model, in contrast, is at least as much to protect the innocent as it is to convict the guilty.

Fundamentally, the due process model defends the ideal of personal freedom and its protection and rests on the assumption that the prevention of tyranny on the part of government and its agents is the most important function of the criminal justice process.

- 6. Describe the costs of criminal justice in the United States, and compare those costs among federal, state, and local governments.**

An enormous amount of money is spent each year on criminal justice in the United States. In 2016, federal, state, and local governments spent a total of \$284 billion on police protection (\$138 billion), judicial/legal services (\$61 billion), and corrections (\$85 billion). The bulk of government spending on criminal justice is at the state and local levels, but the federal government spends money strategically to influence criminal justice policy at the other levels of government.

- 7. Explain how myths about crime and criminal justice affect the criminal justice system.**

The acceptance and perpetuation of myths, or simplistic beliefs based on emotion rather than rigorous analysis, can harm the criminal justice system by contributing to the failure to reduce crime and to the waste of money in the battle against crime.

● KEY TERMS

statute of limitations 5	booking 9	grand jury 12	system 14
institution of social control 8	defendant 9	information 12	crime control model 16
jurisdiction 9	initial appearance 12	arraignment 12	due process model 16
misdemeanor 9	summary trial 12	plea bargaining 12	doctrine of legal guilt 18
felony 9	probable cause 12	bench trial 12	myths 22
arrest 9	bail 12	probation 13	
	preliminary hearing 12	parole 13	

● REVIEW QUESTIONS

1. What is the fundamental problem with the types of crime routinely presented by the media?
2. What was the most frequent type of call for police service in Portland, Oregon during the period examined in the text (see Table 1.2)?
3. What is an *institution of social control*?
4. Why is criminal justice sometimes considered society's "last line of defense"?
5. What three agencies make up the criminal justice system?
6. What is a *jurisdiction*?
7. What is the difference between a *misdemeanor* and a *felony*?
8. What is the difference between an *arrest* and a *booking*?
9. Who decides whether to charge a suspect with a crime?
10. What is a *defendant*, and when does a suspect become a defendant?
11. What is the difference between an *initial appearance* and a *preliminary hearing*?
12. Define *bench trial*, *summary trial*, *bail*, *grand jury*, *arraignment*, *plea bargaining*, and *parole*.
13. What is meant by *probable cause*?
14. Why are the conflicts between the different agencies of criminal justice not entirely undesirable?
15. Why does Packer use the metaphors of *assembly-line justice* and *obstacle-course justice* to characterize his crime control and due process models of criminal justice?
16. What are the bases (i.e., the presumptions or doctrines) of Packer's crime control and due process models of criminal justice?
17. Which levels of government—federal, state, local—bear most of the costs of criminal justice in the United States?
18. What is a lesson to be learned from myths about crime and criminal justice?

● IN THE FIELD

1. **Crime and the Media** Watch a local television station's broadcast of the evening news for one or more days and record the crimes reported. Then obtain from your local police department a copy of the log of calls for police service for one of those days. Compare the crimes reported on the nightly news with the calls for police service. Describe similarities and differences between the two different sources of crime information. What have you learned?
2. **Costs of Crime** Follow a criminal case in your community and determine the costs of processing the case. You will have to contact the police, the prosecutor, the defense attorney, the judge, and other relevant participants. Remember to consider both monetary and psychological costs. After you have determined the costs, decide whether you think they were justified. Defend your answer.
3. **Costs of Justice** Only about 6% of state and local spending is for criminal justice. By contrast, states and localities spend more for education and public welfare and about the same for health care and hospitals. Divide into groups. Using the preceding information, debate within your group whether states and localities spend enough of their budgets on criminal justice. Share group results with the class.

ON THE WEB

1. **Criminal Justice in Other Countries** Learn about the criminal justice systems of other countries by visiting the U.S. Justice Department's website, *The World Factbook of Criminal Justice Systems*, at <http://bjs.ojp.usdoj.gov/content/pub/html/wfcj.cfm>.
2. **FBI's Most Wanted** Access the FBI's "Top Ten Most Wanted Fugitives" at www.fbi.gov/wanted/topten/. Read the descriptions of the fugitives. Write a report describing the characteristics they share. Also, try to determine what unique features qualify these fugitives, and not others, for the list.

CRITICAL THINKING EXERCISES

PLEA BARGAINING

1. Shirley Smith pleaded guilty to third-degree murder after admitting she had put rat poison in drinks her husband ingested at least 12 times during the course of their 13-month marriage. Sentenced to a maximum of 20 years in prison, she would have to serve at least 10 years before she could be considered for parole. The prosecutor defended the plea bargain against much public criticism. The prosecutor claimed that the costs of a murder trial and subsequent appeals were not paramount. However, the prosecutor did acknowledge that the case could have been the most expensive in county history, that it exhausted his entire \$2 million budget for the fiscal year, and that it required a tax increase to cover the costs. As an elected official, the prosecutor attempted to seek justice while exercising a sense of fiscal responsibility.
 - a. Do you think the prosecutor made the correct decision to plea bargain? Defend your answer.
 - b. In potentially expensive cases, should the prosecutor seek a referendum on the matter (to determine whether residents are willing to pay additional taxes to try a defendant rather than accept a plea bargain)?

PRISON VERSUS REHABILITATION

2. The city council of a midsize East Coast city is locked in a debate concerning how to address the rising incidence of violent crime. John Fogarty, one of the most influential people in the city, is pushing for more police and stiffer penalties as the solution. He is the leader of a group that is proposing the construction of a new prison. Another group thinks putting more people in prison is not the answer. They believe that early intervention, education, and prevention programs will be most effective. There is not enough money to fund both sides' proposals.
 - a. Which side would you support? Why?
 - b. What do you think is the number-one crime problem in your community? List ways of dealing with that problem. What would be the most cost-effective way to lower the rate of that crime?

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