

# ONE

## PART THE FOUNDATIONS OF CRIME AND JUSTICE

Morality cannot be legislated but behavior can be regulated.—**MARTIN LUTHER KING, JR.** Crime may be said to be injury inflicted in defiance of law.—**ARISTOTLE** Nobody ever commits a crime without doing something stupid.—**OSCAR WILDE** A thief believes that everybody steals.—**E. W. HOWE** A burglar who respects his art always takes his time before taking anything else.—**O. HENRY** People's fear of crime doesn't come from looking over their shoulders. It comes from looking at their television screens.—**ROBERT LICHTER, CENTER FOR MEDIA AND PUBLIC AFFAIRS** Our new Constitution . . . promises permanency, but in this world nothing can be said to be certain, except death and taxes.—**BENJAMIN FRANKLIN**

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Chapter 1 "Criminal Justice" in America

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Chapter 2 Crime and the Nature of Law

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Chapter 3 Legal and Behavioral Aspects of Crime

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Chapter 4 Criminal Statistics and the Extent of Crime

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Chapter 5 The Process of Justice: An Overview

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# 1

## “CRIMINAL JUSTICE” IN AMERICA

### LEARNING OBJECTIVES

*After reading this chapter, you should be able to answer the following questions:*

- 1.** To what extent can the mass media have an impact on the criminal justice process?
- 2.** What are the differences among criminal justice, criminology, criminal law, and criminal procedure?
- 3.** In what ways is the study of criminal justice at the beginning of the 21st century an outgrowth of the 1960s “war on crime”?
- 4.** What is the importance of, and the difference between, the “due process” and “crime control” models of criminal justice?
- 5.** What are some of the key issues affecting contemporary criminal justice policy and procedures?
- 6.** What is terrorism?
- 7.** What is “critical thinking” in criminal justice?
- 8.** What is the general content of an undergraduate degree program in criminal justice?



*Michael Jackson leaving the Santa Barbara County courthouse.*

**SANTA MARIA, CA**—Setting the stage for a contentious legal battle that would be played out in the world media spotlight, superstar Michael Jackson was put on

trial in early 2005, charged with 10 criminal counts including child molestation, attempted child molestation, administering alcohol to a minor to aid in the commission of a felony, and conspiracy to kidnap, extort, and falsely imprison the teenage accuser's family. Thousands of stories were published detailing every minute aspect of the circuslike proceedings, including the day Jackson arrived late to court wearing pajamas and complaining of a serious back injury. Jackson believed he was the victim of a conspiracy and maintained his innocence throughout. Moreover, the list of possible witnesses to testify on his behalf read like a Los Angeles premiere, including the likes of Jay Leno, Elizabeth Taylor, Kobe Bryant, and Diana Ross.<sup>1</sup>

Michael Jackson is certainly not the first major celebrity to be charged with criminal activity and to receive widespread media attention. Sex scandals involving the rich and famous have always attracted readers. Perhaps the first celebrity sex case dates back to when Roscoe "Fatty" Arbuckle, a slapstick silent-film star whose girth begat his nickname, was charged with the rape and death of an aspiring young actress in 1921. Arbuckle was finally acquitted after three trials, but not before starring in the flurry of scandalous headlines touting "the case of the century" that



*American comic actor Roscoe "Fatty" Arbuckle.*

ultimately ruined his reputation and career.<sup>2</sup> The sensationalistic media attention surrounding Jackson's trial was reminiscent of Arbuckle's debacle, and so too was Jackson's case labeled the "case of the century," even though there were 95 more years to go.

What is it about crimes and trials that fascinates people generation after generation, and why do some cases attract so much public attention?

**D**uring the first few years of the 21st century, there were other celebrated criminal cases—basketball star Kobe Bryant, home decorating executive Martha Stewart, and film star Winona Ryder. All exposed many of the details behind our criminal justice system to millions of Americans. The rules of evidence, jury selection methods, DNA testing reliability, media interference, and police investigation techniques suddenly "mattered" to tens of millions of Americans.

Yet such high-profile cases can also lead to an inaccurate and unbalanced view of our criminal justice system. Criminal justice isn't just the police or the courts. Perhaps most important, the overwhelming majority of criminal cases are handled nothing like the cases seen on TV. Media-fed images and preconceptions—whether from the nightly news, amateur footage of "real cops," or the latest Hollywood crime thriller—are more drama-based than focused on understanding how our society handles crime. The details of sensational cases often obscure why the system has evolved into its current form and where criminal justice might be headed in the years ahead.

This book carries you beyond these preconceptions and limitations. Whether you become a criminal justice professional, enter a field that interacts with some

part of the criminal justice system, or simply remain a private citizen, it is important that you develop an accurate understanding of how our system works—and how it can fail. This book helps you to analyze the issues that drive the system today and into the future.

## | The Emergence of “Criminal Justice” |

**Criminal justice** refers to the structure, functions, and processes of those agencies that deal with the management of crime—the police, the courts, and corrections. The content of criminal justice studies comes from a variety of disciplines, including criminology, criminal law, criminal procedure, and constitutional law.

*Criminology* is the scientific study of the causes of crime, rates of crime, the punishment and rehabilitation of offenders, and the prevention of crime. The great majority of courses and textbooks in criminology provide an overview of the criminal justice system, but its structure and processes are not the major focus.

*Criminal law* is the branch of modern jurisprudence that deals with offenses committed against the safety and order of the state. Many aspects of criminal law are addressed in criminal justice studies, including definitions of crime, criminal intent, and defenses against crime.

*Criminal procedure* encompasses the series of orderly steps and actions, authorized by law or the courts, used to determine whether a person accused of a crime is guilty or not guilty. Although much of the field of criminal procedure is addressed in law courses, many of its basic components are studied by criminal justice students.

*Constitutional law* focuses on the legal rules and principles that define the nature and limits of governmental power and the duties and rights of individuals in relation to the state. The parts of constitutional law that are examined in criminal justice courses are those associated with criminal procedure and the behavior of criminal justice agency personnel. Although criminology is more than a century old, and legal studies have been in existence for millennia, it was not until the end of the 1960s that the foundations of criminal justice as an academic discipline were established. They were an outgrowth of the many calls for “law and order” during the presidency of Lyndon B. Johnson.

## “Law and Order” and the “War on Crime”

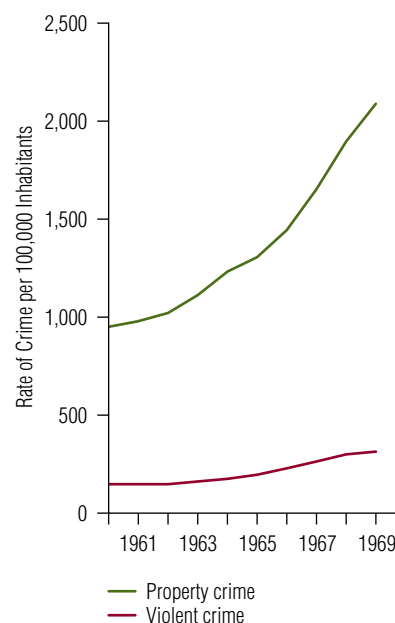
The 1960s were a violent decade. Crime rates had increased in both urban and rural areas. There were mass protests and political murders associated with the civil rights movement. There were riots in many of the nation’s minority communities, brought on by racism and the deterioration of inner-city neighborhoods. There were turbulent campus demonstrations and street revolts in opposition to the war in Vietnam. And there were numerous political assassinations—President John F. Kennedy in 1963, Black Muslim leader Malcolm X in 1965, and both civil rights leader Dr. Martin Luther King, Jr., and Senator Robert F. Kennedy in 1968.<sup>3</sup>

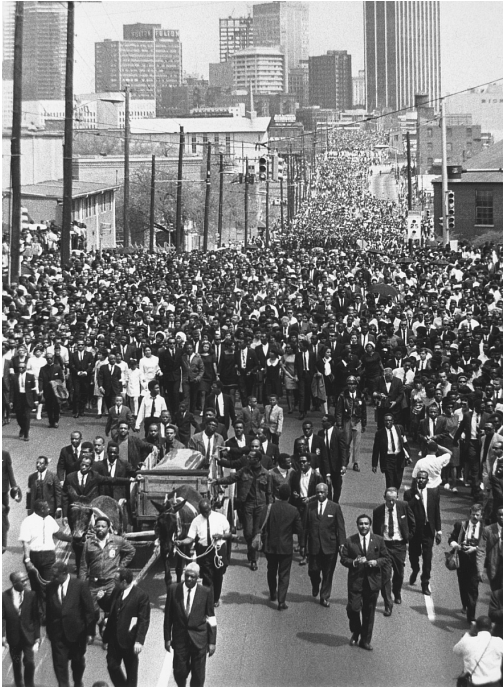
Emotionally charged appeals for “**law and order**” began circulating early in the decade. Those appeals were, in part, a reflection of the temperament of grassroots America, which was seeking a return to the morality of previous decades. They came as well from citizens who despised not only crime in general but also the anarchy that appeared to prevail in the streets.<sup>4</sup>

Also visible at this time was a trend toward the “nationalization” of the Bill of Rights. Its authors’ intent was that the Bill of Rights be applicable at the national level—that is, at the level of the federal government—not at the state level. Thus, defendants in state criminal trials were not accorded many of the constitutional protections that were routinely given to those tried in the federal courts. However, in the 1930s the U.S. Supreme Court began extending these rights to state defendants. It was not until the 1960s, however, that significant gains were made. By 1969, nearly all the

### U.S. Crime Rates, 1960–1969

Source: Uniform Crime Reports.





*More than 50,000 people formed the funeral cortege for assassinated civil rights leader Dr. Martin Luther King, Jr., in 1968. As violence escalated during the decade, so did emotionally charged appeals for “law and order.”*

provisions of the Bill of Rights relating to criminal violations were binding on the states, including the prohibitions against compulsory self-incrimination, illegal search and seizure, and cruel and unusual punishment, as well as the rights to counsel, speedy trial, and confrontation of hostile witnesses.<sup>5</sup> Several of these decisions came early in the 1960s, and many people interpreted them as attempts to “handcuff” police and “coddle” criminals.

On July 25, 1965, in response to growing fears of crime and disorder, President Lyndon Johnson’s “war on crime” was officially launched with the establishment of the **President’s Commission on Law Enforcement and Administration of Justice**. Unknown to Americans at the time, and even to Johnson himself, the commission would initiate a new era for criminal justice in the United States.

### The President’s Crime Commission

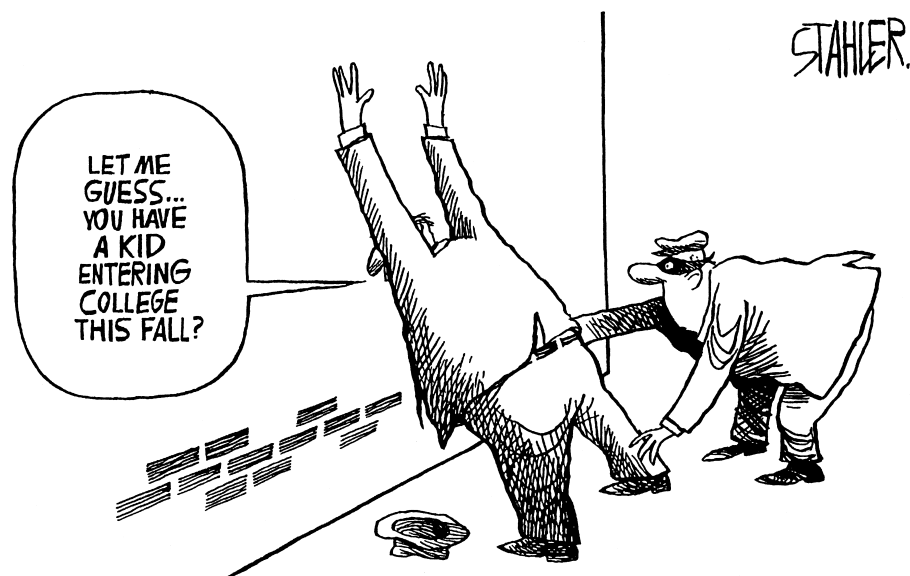
The President’s Commission on Law Enforcement and Administration of Justice, commonly referred to as the President’s Crime Commission, appointed several task forces to study the crime problem and the structure of criminal justice administration and make recommendations for action. The commission, made up of 19 commissioners, 63 staff members, 175 consultants, and hundreds of advisers, studied most aspects of the crime problem and the machinery of criminal justice. Even before its findings appeared, however, President Johnson announced to the nation that new approaches to old problems must be sought:

The problems of crime bring us together. Even as we join in common action, we know that there can be no instant victory. Ancient evils do not yield to easy conquest. We cannot limit our efforts to enemies we can see. We must, with equal resolve, seek out new knowledge, new techniques, and new understanding.<sup>6</sup>

**Key Recommendations** After hundreds of meetings, tens of thousands of interviews, and numerous national surveys, the President’s Crime Commission released a series of reports on the police, courts, corrections, juvenile delinquency, organized crime, science and technology, drunkenness, narcotics and drugs, and the assessment of crime—all of which were summarized in its general report, *The Challenge of Crime in a Free Society*.<sup>7</sup> This summary report targeted seven specific objectives, which in many ways would shape the direction of criminal justice for years to come:

1. Society must seek to prevent crime before it happens by assuring all Americans a stake in the benefits and responsibilities of American life, by strengthening law enforcement, and by reducing criminal opportunities.
2. The aim of reducing crime would be better served if the system of criminal justice developed a far broader range of techniques with which to deal with individual offenders.
3. The system of criminal justice must eliminate existing injustices if it is to achieve its ideals and win the respect and cooperation of all citizens.
4. The system of criminal justice must attract more and better people—police, prosecutors, judges, defense attorneys, probation and parole officers, and corrections officials with more knowledge, expertise, initiative, and integrity.
5. There must be much more operational and basic research on the problems of crime and criminal administration by researchers both within and outside the system of criminal justice.
6. The police, courts, and correctional agencies must be given substantially greater amounts of money if they are to improve their ability to control crime.
7. Individual citizens, civic and business organizations, religious institutions, and all levels of government must take responsibility for planning and implementing the changes that must be made in the criminal justice system if crime is to be reduced.<sup>8</sup>

In addition to these major objectives, the commission’s reports made more than 200 specific recommendations. The commission, however, as well as the president himself, had been naive in suggesting, for example, that “warring on poverty, inad-



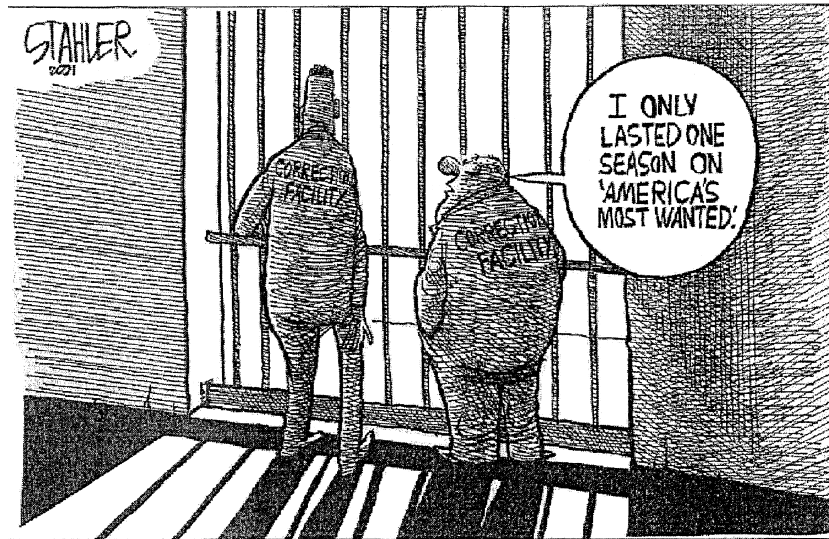
Jeff Stahler reprinted by permission of Newspaper Enterprise Association, Inc.

quate housing, and unemployment is warring on crime”; that “a civil rights law is a law against crime”; and that “money for schools is money against crime.” The relationship between crime and poverty had been studied at length for many generations, with the inescapable conclusion that the root causes of crime could not be found in any simplistic equation involving only the disadvantaged segments of society.

Poverty and segregation clearly serve to perpetuate crime, the noted criminologist Edwin H. Sutherland had argued, but “poverty as such is not an important cause of crime.”<sup>9</sup> Also, the peculiarity of the poverty-crime nexus was well targeted by political scientist James Q. Wilson in his phrase “Crime amidst plenty: the paradox of the sixties.”<sup>10</sup> Wilson was referring to the fact that at the beginning of the 1960s, the United States entered its longest sustained period of prosperity since World War II. During this time, the economy as a whole was strengthened, many people’s incomes increased, and the educational attainments of the young rose sharply. Yet, at the same time, crime increased at an alarming rate, along with youth unemployment, drug abuse, and welfare. Thus the suggestion of the President’s Commission that the war on crime should



*An arrest in an inner-city apartment.*



Jeff Stahl (brahlerprincypost.com). *The Cincinnati Post* for *USA Today*.

focus on poverty alone caused acute disappointment among those who had spent their lives studying the problem.

**Criminal Justice as a “System”** In contrast, the commission’s analyses of the *processes* of criminal justice were to have a great impact. They awakened a consciousness of criminal justice as an integrated “system”—an orderly flow of managerial decision making that begins with the investigation of a criminal offense and ends with the offender’s reintegration into the free community:

The criminal justice system has three separately organized parts—the police, the courts, and corrections—and each has distinct tasks. However, these parts are by no means independent of each other. What each one does and how it does it has a direct effect on the work of the others. The courts must deal, and can only deal, with those whom the police arrest; the business of corrections is with those delivered to it by the courts. How successfully corrections reforms convicts determines whether they will once again become police business and influences the sentences the judges pass; police activities are subject to court scrutiny and are often determined by court decisions.<sup>11</sup>

The President’s Crime Commission, however, was not altogether unaware of the shortcomings of what it called the “system” of criminal justice, and it called for extensive research and an upgrading of criminal justice personnel and practices. In these areas, the commission had its most visible impact on criminal justice in America.

### The Omnibus Crime Control and Safe Streets Act of 1968

The year 1968 occupies a unique place in our images of crime in America. It was a year of riots, protests, and assassinations. It was also a year of increasingly visible street crime. Among the 4.5 million known major crimes that occurred in that year, there were almost 13,000 homicides, 31,000 forcible rapes, 262,000 robberies, 283,000 serious assaults, 778,000 auto thefts, 1.3 million larcenies, and 1.8 million burglaries. At least 1 out of every 45 Americans was the victim of a serious crime.<sup>12</sup>

The use of heroin and other illegal drugs had also reached significant proportions by 1968 (see Exhibit 1.1), having expanded from inner-city areas to suburbia during the early part of the decade.<sup>13</sup> Associated with drug abuse was street crime—burglaries, robberies, and muggings. It was in this setting of street crime, drug abuse, political protest, and violence that fear of crime emerged as an even more important concern than it had been when the President’s Crime Commission was established. Noting this growing fear, the commission wrote that the purpose of its report was to reduce the fear



## drugs, crime, and justice | EXHIBIT 1.1



### The Drug Revolution of the 1960s

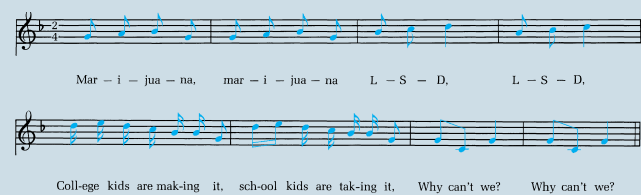
The late 1960s marked the beginning of a new epoch of drug use among American youth. Changes in the technology of producing drugs offered a wide array of substances to the eager, drug-taking, disaffected youth cultures. Primary among these substances were newer varieties of amphetamine stimulants, sedatives, and hallucinogens, some of which could be produced in high school chemistry labs and fraternity house bathtubs. They were called “speed,” “goofballs,” “reds,” “yellows,” “blues,” “black beauties,” and other more colorful names. However, few drugs captured the attention and concern of the public as did marijuana and LSD.

Marijuana is a mild hallucinogenic substance derived from the crushed leaves and stems of the hemp plant and has been used for thousands of years. Before the late 1920s, few in the United States had heard of the drug, but by the close of the 1930s it was being called the “weed of madness” and the “assassin of youth” that led users “along a path of destruction and death.” These images persisted into the 1960s and beyond.

LSD (lysergic acid diethylamide) was first isolated in 1938 by Dr. Albert Hoffman of Sandoz Research Laboratories, but its hallucinogenic properties were not discovered until years later. In the early 1960s, when it was still relatively unknown, two Harvard University psychologists, Timothy Leary and Richard Alpert, began experimenting with the drug on themselves and their colleagues, as well as on artists, writers, students, prison inmates, and others, to determine its effects. Although the two professors were eventually dismissed from Harvard,

LSD had already gained a reputation. “Taking a trip” or “turning on” became a status symbol on college campuses. By the late 1960s, LSD had become a household word, and chilling stories were told to scare potential users away from the drug.

By 1968, use of marijuana and LSD was believed to have reached epidemic proportions—and even the parents of young children had reason to be frightened when their sons and daughters came home from elementary school chanting the following little melody, to the tune of “Frère Jacques”:



Furthermore, an epidemic of narcotics use was also under way. Thus, the use of drugs and the escalating rates of crime that began in the late 1960s initiated a series of “wars on drugs” that have continued into the 21st century.

Source: James A. Inciardi, *The War on Drugs III: The Continuing Saga of the Mysteries and Miseries of Intoxication, Addiction, Crime, and Public Policy* (Boston, MA: Allyn & Bacon, 2002).

of crime through its recommendations for a broad and comprehensive attack on the “root causes” of crime.<sup>14</sup>

However, the recommendations of the commission did not and could not culminate in the type of war on crime that was envisioned. To launch a comprehensive attack on the “root causes” of crime was unrealistic, for as noted earlier, those causes have never been fully understood. The search for the causes of crime has been going on for generations with only minimal results. In fact, numerous researchers have concluded that a search for causes is a “lost cause” in criminology.<sup>15</sup>

President Johnson’s proposals for the war on crime resulted in the passage of the **Omnibus Crime Control and Safe Streets Act** of 1968, a piece of legislation that generated heated controversy. The act was not directly designed to bring about major reforms in the criminal justice system. Rather, it appeared to be more of a political maneuver aimed at allaying current fears about crime and calming agitation over inner-city riots and anger over Supreme Court decisions that allegedly tied the hands of the police. One provision of the act (Title II) attempted to overturn numerous Supreme Court decisions by stating that all voluntary confessions and eyewitness identifications—regardless of whether a defendant had been informed of his or her rights—could be admitted in federal trials.<sup>16</sup> Title III of the act empowered state and local law enforcement agencies to tap telephones and engage in other forms of eavesdropping for brief periods even without a court order. Primarily because of these two provisions, the Omnibus Crime Control and Safe Streets Act was looked upon as a bad law, one that constituted a significant move toward the establishment of a police state. This concern was forcefully voiced by liberal opponents of the law.



### The Law Enforcement Assistance Administration

The primary provision of the Omnibus Crime Control and Safe Streets Act was Title I, which created the **Law Enforcement Assistance Administration**. More commonly known as LEAA, it was organized within the Department of Justice to develop new devices, techniques, and approaches in law enforcement; to award discretionary grants for special programs in the field of criminal justice; and to supply states and municipalities with funds for improving their criminal justice systems and for training and educating criminal justice personnel.<sup>17</sup>

During its early years, the LEAA was criticized for overemphasizing the funding of a “technological” war on crime and for providing grants for purposes beyond its original mission.<sup>18</sup> However, not all LEAA funds were misdirected or misused, nor were all funds channeled for the development of technological tools for a war on crime. A significant proportion of LEAA expenditures was also targeted for social programming and research, court reform, and correctional programs. Moreover, throughout the 1970s LEAA provided more than \$40 million per year for the education of some 100,000 persons employed in or preparing for a career in criminal justice. Known as the Law Enforcement Education Program (LEEP) the report of the Twentieth Century Fund Task Force, which examined the operation of LEAA, maintained that the education program was among the agency’s most constructive and successful efforts. As such, it was LEAA’s Law Enforcement Education Program that initiated the first academic programs in criminal justice. Since then, criminal justice education has become a dominant field in community colleges and universities throughout the United States.

### | Models of Criminal Justice |

The procedures for crime control, the processing of criminal defendants, and the sentencing, punishment, and management of convicted offenders are closely linked to the guarantees and prohibitions found in the Bill of Rights and interpretations of those provisions by the Supreme Court. Interestingly, however, the major criminology and criminal justice textbooks used during the first half of the 20th century make no men-

tion of either the Bill of Rights or the United States Supreme Court.<sup>19</sup> Not until the 1960 publication of *Crime, Justice, and Correction* by lawyer-sociologist Paul W. Tappan did Supreme Court decisions begin to creep into discussions of criminal justice processing.<sup>20</sup> Actually, this should *not* be surprising. As will become apparent throughout this book, concerted Supreme Court activity in matters of criminal justice did not begin until the early 1960s. Since then the Court has been extremely active. The Court’s decisions and subsequent impact on the American justice system is best understood within the context of two competing models: the *due process model* and the *crime control model*. Since these models underlie much of the discussion in later chapters, it is important to look at them more closely here. Although no single model can possibly describe the reality of the criminal justice system in a completely satisfactory manner, each concept lends important insight into the philosophies on which the American criminal justice system is based.

### The Due Process Model

Herbert Packer’s classic book *The Limits of the Criminal Sanction* elaborates on the fundamental ideas of the **due process model**.<sup>21</sup> This model stresses the possibility of error in the stages leading to trial. It therefore emphasizes the need to protect procedural rights even if this prevents the legal system from operating with maximum efficiency. Essentially, the model assumes that justice is better served if everyone gets his or her fair day in court; while it is unfortunate if a few guilty people go free, this outweighs the risk of locking up any innocents.

In the 1960s, the **Warren Court**—the Supreme Court under the leadership of Chief Justice Earl Warren—announced a large number of decisions that were in accordance with the due process model. The Warren Court’s decisions in the area of criminal law applied a relatively strict version of the due process model to criminal justice. As mentioned earlier, one provision after another of the Bill of Rights was incorporated into the due process clause of the Fourteenth Amendment, thereby obliging the states to grant criminal defendants many of the constitutional safeguards that were already routinely accorded to those accused of federal crimes.

The American Civil Liberties Union, or ACLU, is an advocacy organization dedicated to defending every individual’s rights as guaranteed under the Constitution and



*Citizens arming themselves continues to be a response to the generalized fear of crime in society. Here, two armed Christmas shoppers take a break to eat lunch in Vermilion, Ohio.*



*The Supreme Court under the leadership of Chief Justice Earl Warren; (seated, from left) John M. Harlan, Hugo L. Black, Earl Warren, William O. Douglas, and William J. Brennan, Jr.; (standing, from left) Abe Fortas, Potter Stewart, Byron R. White, and Thurgood Marshall.*

the Bill of Rights. The ACLU's fundamental philosophy also follows the due process model of justice.

### The Crime Control Model

In contrast to the due process model, the **crime control model** emphasizes efficiency and is based on the view that the most important function of the criminal justice process is repression of criminal conduct. Proponents of this model put a premium on speed and finality, and cannot understand why obviously guilty defendants should go free simply because of errors by police or court personnel. The model assumes that it is acceptable to suspend individual rights or perhaps overlook technicalities in procedure in the interest of protecting society from criminal behavior.

The **Burger Court**—the Supreme Court under the leadership of Chief Justice Warren Burger—appeared attuned to the crime control model in its decisions. A legislative enactment of this model includes the “three-strikes” laws, a concept that parallels the sport of baseball. In baseball, it’s three strikes and you’re out, while under the legislation, it’s three crimes and you’re imprisoned; in both examples, it’s futile to argue your way out of the system no matter how controversial the call. Further discussion of the three-strikes laws is featured in Chapter 13, and other legislative examples and major Supreme Court rulings based on both the due process and the crime control models are examined throughout the remaining chapters of the text.

### | Key Factors in Criminal Justice Today |

In addition to being familiar with the major models of criminal justice, students of crime and justice in America need to be familiar with the impact of five important trends on contemporary criminal justice procedures and policies. Those trends are the continuing escalation of the war on drugs, the increasing rate of criminality among women, the significance of crime victims in the process of justice, the ways in which the so-called system of criminal justice can sometimes be, in effect, a “non-system,” and, most recently, the impact of terrorism on all aspects of the criminal justice system.

## The War on Drugs

As noted in Exhibit 1.1, since the late 1960s the nation’s “war on drugs” has shaped various aspects of public and criminal justice policy. In fact, because of the linkages between drug use and crime, the policy agenda of almost every U.S. president during the past four decades has addressed the drug problem in one way or another.

In recent years the war on drugs has intensified and has engendered a criminal justice process that appears to be “drug driven” in almost every respect. New laws have been passed to deter drug involvement and increase penalties for drug-related crime. Street-level drug enforcement initiatives have been expanded, and these, in turn, have increased the number of drug-related arrests. In the judicial sector, the increased flow of drug cases has resulted in overcrowded dockets and courtrooms, as well as the creation of new drug courts, special dispositional alternatives for drug-involved offenders, and higher conviction and incarceration rates. In the correctional sector, the results include further crowding of already overpopulated jails and penitentiaries, the establishment of liberal release policies, and experimentation with new prison-based drug treatment programs.

The focus on drugs has also impacted state finances. In a report released by the National Center on Addiction and Substance Abuse at Columbia University, it was estimated that 13% of state budgets were dedicated to dealing with drug abuse but that out of every one dollar spent, only 4 cents were allocated for treatment and prevention.<sup>22</sup> At the same time, however, both federal and state court systems rely heavily on the substance abuse treatment system. In 2002, for example, the criminal justice system was the principal referral source for 36% of all substance abuse treatment admissions.<sup>23</sup> (For a perspective on the author’s interaction with a well-known cocaine trafficker, see Exhibit 1.2.)

Many states are devising innovative initiatives in an attempt to more effectively manage their budgets as well as to control and sanction drug-related crime. For example, California’s Substance Abuse and Crime Prevention Act, better known as Proposition 36, diverts drug offenders from the traditional channels of the criminal justice system into drug treatment programs. The majority of California voters (61%) supported the ballot measure, which was promoted and funded mostly by George Soros (president of Soros Fund Management), Peter Lewis (philanthropist and CEO of Progressive Insurance), and John Sperling (CEO of Apollo Group, Inc.)—billionaire financiers who view American drug policy as a complete failure and wish to change its focus, including a liberalization of many of the nation’s drug laws.<sup>24</sup>

While most Californians seem to support the reformist drug enforcement policies, it remains unclear at this point how effectively the community-based drug treatment system is absorbing and successfully treating the massive influx of Proposition 36 clients. A recent study found that offenders treated under the program were actually more likely to be rearrested for drug offenses than were other groups studied.<sup>25</sup> A more detailed discussion of Proposition 36 (see Chapter 17), as well as other effects of the war on drugs on the criminal justice system, are illustrated in subsequent chapters.

## Women, Crime, and Criminal Justice

Another important aspect of criminal justice in the United States today is the increasing visibility of women. The criminal justice system has traditionally been male-dominated, and there are a variety of reasons for this. Historically, the great majority of offenders have been men, and correctional institutions and programs have been designed for men, by men. Moreover, many of the female offenders who have come to the attention of police, courts, and prisons have received some degree of leniency and lighter sentences than men. This situation did not occur because police officers and judges were chivalrous. Rather, it appears that women were typically no more liberated in the world of crime than in other areas, and thus were usually relegated to minor roles in criminal activity.

Recently all of this has been changing. Since the early 1970s, the number of female offenders has increased, and their roles in criminal activity have increasingly

## EXHIBIT 1.2 | A View from the Field

### Meeting Pablo by James A. Inciardi

On several occasions during the 1980s, at a time when the violence associated with cocaine trafficking was escalating, I journeyed throughout South America at the behest of the United States Information Agency (USIA). My purpose was to tour the university and media lecture circuits in Bolivia, Colombia, Ecuador, and Peru to address the political, social, and economic implications of trafficking for countries producing, refining, and transporting cocaine. The experiences were both exciting and informative, and I was exposed to a variety of new cultures and peoples. But there were times when I never knew who I was really working for. Maybe it was the USIA, but more likely it was the State Department, the Drug Enforcement Administration (DEA), or even the CIA. Perhaps it was all of them, because representatives of each agency seemed to be present everywhere I went.

On one particular visit to Bogota, Colombia, in early 1982, I spent several hours talking to the editor of *El Colombiano*, the city's largest newspaper.\* I was accompanied by two interpreters—one from the DEA and one from the CIA. One of the questions asked by the editor was, "We have a growing cocaine problem here, but do you think we'll ever see heroin addicts in Colombia, like in the United States?" My answer was, "Yes, because the traffickers are already growing opium poppies in the Orinoco Llanos region of the country." The DEA and CIA representatives seemed upset by my answer, and later they asked me how I knew about the poppy growing—because it was a high-security topic and they had heard about it from confidential sources only a few days earlier. I told them that I had read it in *High Times*, which was my way of telling them that I would not divulge my source. Actually, I didn't know; it was just a good guess. Before visiting Colombia for the first time, I had learned as much as I could about the country. I came across a discussion of the Colombian *llanos*. The term refers to prairies, specifically those of the Orinoco River basin in eastern Colombia. The *llanos* of the Orinoco is a vast, hot region of rolling savanna broken by low-lying mesas, scrub forest, and scattered palms. It is sparsely populated, and it seemed a likely place for growing poppies. In the more than 20 years since that interview at *El Colombiano*, Colombia has become a major producer and exporter of heroin, with much of the current cultivation in the mountains, but some still in the *llanos*.

Later in the same week I traveled to Medellín, Colombia, escorted by an interpreter and bodyguard from the U.S. Embassy. Travel guides at the time said little about Medellín, only that it was a city of 1.5 million located 345 miles northwest of Bogota; that it was Colombia's industrial hub, manufacturing everything from cigarettes and soft drinks to cement, textiles, and foodstuffs; and that it was not much of a tourist city. What was not spelled out was that Medellín was a city where street crime, brutal violence, terrorism, and cocaine trafficking were prevalent and where bodyguards and armed soldiers were always present, but hardly noticed. Somehow I managed to notice them all.

During lunch on the second day of my visit, my interpreter asked me if I wished to meet a local congressman, who also happened to be an up-and-coming cocaine trafficker. His name was Pablo Emilio Escobar Gaviria. We exchanged greetings, talked about my visit through the interpreter, and then went our separate ways. At the time, I had not



*Colombian Drug Lord Pablo Escobar.*

heard of Pablo Escobar. Little did I know that he would become one of the most ruthless and powerful drug traffickers Colombia ever had; that he would become head of *El Cartel De Medellín* (the Medellín cartel), which played a pivotal role in the network of international cocaine trafficking; that he would be suspected of ordering more than 100 murders; and that he would be the prime suspect in the killing of three Colombian presidential candidates and scores of newspaper reporters who would write against him. Interesting fellow.

Pablo Escobar ultimately became one of the most feared people in the Americas, and at the height of his success he was listed in *Forbes* magazine as one of the wealthiest men in the world. In the final analysis, however, he was little more than a street thug who had become successful by trafficking in cocaine. In 1993, at the age of 44, he was killed during a shoot-out with the Colombian police.†

\**El Colombiano*, June 17, 1982, 2.

† For an in-depth discussion on the history and prominence of Pablo Escobar and the Medellín cartel, see Mark Bowden, *Killing Pablo: The Hunt for the World's Greatest Outlaw* (New York: Atlantic Monthly Press, 2001), and Guy Gugliotta and Jeff Leen, *Kings of Cocaine: Inside the Medellín Cartel—An Astonishing True Story of Murder, Money, and International Corruption* (New York: Simon & Schuster, 1989).



An agent from the Drug Enforcement Administration takes possession of cocaine seized by U.S. Navy personnel off the coast of San Diego.

paralleled those of men. This has become most evident in prison statistics. In 1970, only 2.9 percent of state and federal prisoners were women, yet by 2004 this proportion had increased to 6.9 percent.<sup>26</sup> Moreover, since 1995, the total number of male prisoners has grown by 27 percent, whereas the number of women prisoners has increased by 42 percent.

At the same time, the proportions of female police officers, judges, attorneys, corrections officers, and other criminal justice personnel have also increased. Given these changes, later chapters of this book include a focus on crime and criminal justice issues that relate specifically to women.

### The Criminal Justice “Nonsystem”

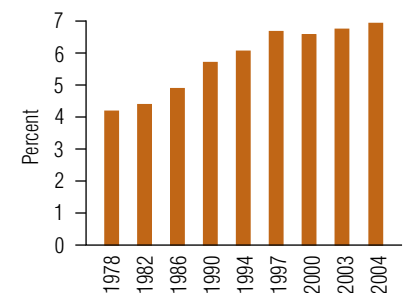
The notion of criminal justice operating as a “system” may not be entirely accurate. In this sense, there are two competing perspectives of the organization of the criminal justice system: the *consensus model* and the *conflict model*. Likely more of an ideal than a reality, the consensus or *systems* perspective argues that the organizations of the criminal justice system work cooperatively to produce justice. Agencies should share information and coordinate their efforts, thereby moving offenders seamlessly through the justice process.

In contrast, the conflict model, also known as the *nonsystem* perspective, posits that the branches of justice work competitively as individual entities rather than as part of an integrated whole. The interrelationships among police, the courts, and corrections are often beset with both inefficiency and failure. Because of this lack of coordination and failure of purpose, as long ago as the 1960s the American Bar Association referred to criminal justice as a “nonsystem.”<sup>27</sup>

In most jurisdictions, the courts appear to be dumping grounds for offenders; correctional systems serve as holding pens for convicted offenders; and the free community—under the protection and patrol of the police—is the reentry point for those released from jails and prisons. Rarely does each segment of the criminal justice process operate with full awareness of the long-term cyclical implications of its activities. Moreover, the conflict theory argues that the characters in the justice process are tainted by personal interests such as fame, promotions, wages, and notoriety, which create conflicts with the larger system. Criminologist Jerome Skolnick argues that clearance rates (the rate of solving crimes) serve as an example of conflict in the system, as police can be more focused on *appearing* to solve crimes than on *actually solving* crimes.

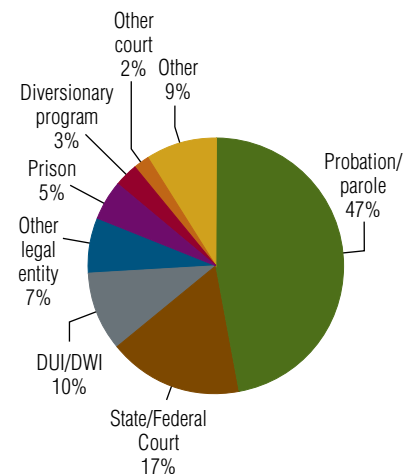
### Proportion of Female Inmates in State and Federal Correctional Institutions

Source: Bureau of Justice Statistics.



### Criminal Justice System Referrals, by Type

Source: SAMHSA Treatment Episode Data Set.





## CAREERS IN CRIMINAL JUSTICE

Studying Criminal Justice by James A. Inciardi

Criminal justice, the study of the agencies and procedures set up to manage both crime and the persons accused of violating the criminal law, has become one of the most popular undergraduate majors in the United States. Programs offer students the opportunity to pursue studies leading to law school, graduate school, or careers in the administration of justice. Degree programs are generally structured around a core of criminal justice courses on such topics as law enforcement, the judicial process, juvenile justice, corrections, criminology, and criminal law and procedure. Other courses provide in-depth examinations of such areas as juvenile delinquency, criminal violence, the jury, alcohol and drug abuse, criminal evidence, criminal justice policy and administration, and prisoners' rights. Since the criminal justice process in any jurisdiction does not exist in isolation but naturally reflects the structure, ideas, and concerns of the community and society in which it operates, criminal justice programs draw from a wide variety of academic disciplines—political science, psychology, history, sociology, and even anthropology.

An integral component of degree programs in criminal justice is field experience—a directed practicum with a criminal justice agency that gives students the opportunity to bridge the gap between the theory and applications learned in the classroom and the actual practice of criminal justice in the real world. In field-experience courses, students are provided the opportunity to work on a first-hand basis in actual agency situations—with police, in law offices, and in correctional settings. Such hands-on experience prepares students for the sometimes unorthodox nature of work in the justice system. Throughout this text, exhibits titled “A View from the Field” share some of the more colorful experiences of my more than 40-year career in the field of criminal justice, including the time I found myself on the wrong side of the law (see, in Chapter 5, the exhibit “The Dangers of Street Research”).

I have taught courses in criminal justice at the University of Delaware for more years than I would like to admit; in fact, since 1976 I have had the satisfaction of teaching the introductory course in criminal justice to well over 10,000 students. Because of my curiosity as to why my students selected this course, I always asked: “Why are you here?” I have kept a tally of the answers over the years, and they turn out to be quite interesting.

First of all, a little over a third of the students have been nonmajors or undeclared. They have chosen the course as an elective because they heard it was interesting and had a number of “real-world applications,” as they put it. The remaining were criminal justice majors, half of whom wanted to pursue traditional career goals including law enforcement, corrections, and the legal profession, while the other half had not yet made any definitive career decisions but simply felt that criminal justice was a “good,” “safe,” and “practical” choice.

For 15 of my years at the University of Delaware, I was director of its undergraduate criminal justice program, and on more than one occasion I conducted follow-up studies of the program's graduates. The findings were quite fascinating. Most of those who had specific career plans at the outset of their undergraduate studies ultimately secured those positions. Many of them had begun to move up in the ranks in their chosen occupations or had shifted into other aspects of criminal justice work. Of those who had no specific career plans when they entered college, about a third were working in the criminal justice field, while the balance seemed to be everywhere from business to hotel management to advertising and sales.

One of the things that the former students who pursued work in the criminal justice field repeatedly emphasized was that after they had begun at entry-level positions in policing, the courts, or corrections, they began to hear about the many less visible occupations in the field. Scores of graduates shifted into these areas. In fact, in addition to working in the more traditional roles, former majors were employed in well over 100 different types of criminal justice professions, including such jobs as crime lab technician, polygraph operator, police photographer, youth gang street worker, school safety officer, and witness protection agent. Most chapters of this text contain a “Careers In Criminal Justice” exhibit like this one, some of which detail traditional and highly recognizable professions, others of which explore some of these less visible but equally vital occupations within the criminal justice system. While the career exhibits are certainly not an exhaustive list of jobs in criminal justice, they nevertheless demonstrate that the opportunities available to graduates with criminal justice degrees are wide open.

He cites an incident in which police coerced a man into confessing to over 400 burglaries just so that they would appear to have a high clearance rate.<sup>28</sup>

In subsequent chapters, a number of the dysfunctional aspects of the American system of criminal justice are highlighted and illustrated.

### Victims and Justice

Historically, the victims of crime and their family members have typically been forgotten in the processing of criminal offenders. Although police generally contact victims when they can offer information that might initiate an arrest, victims have generally



had little say in the judicial and correctional processes. This has occurred for at least three reasons:

- The legal tradition in many cultures has been that it is the *state*, not the *individual*, that is officially the victim of crime.
- There has been the belief that most victims might "get in the way" during police investigations and judicial proceedings.
- There has been the concern that victims are both partial and impatient, and hence are incapable of making an objective contribution to the process of justice.

A recognition of the importance of crime victims began during the latter part of the 1960s, with the most significant advances occurring since the 1980s. The wider roles of victims are discussed in later chapters as they relate to specific areas of criminal processing.



*Estrella Jail complex in Phoenix, Arizona.*

### Terrorism, Criminal Justice, and the Constitution

As discussed in Exhibit 1.3 (see next page), **terrorism** is the systematic use or threat of extreme violence directed against symbolic victims, typically performed for psychological rather than material effects, for the purpose of coercing individuals, groups, communities, or governments into making political or tactical concessions. Keeping this definition in mind, the terrorist attacks on September 11, 2001, had a chilling effect across the United States and elsewhere in the world, and they marked a quantum leap in the deadliness and audacity of terror. In addition, they revealed a vulnerability that many Americans had never before realized or appreciated, sparking a fundamental debate about the tension between liberty and security in the United States.<sup>29</sup> The attacks by al-Qaeda raised the question: How can the government keep Americans secure within the confines of the Constitution, without sacrificing due process of law and other hard-won freedoms?

The question is not easily answered, and airline security is an especially sensitive target of debate. While the need for heightened surveillance of airline passengers is obvious, some say that the newly implemented and controversial measures have not made us any more secure. For example, in 2004 Yusuf Islam, better known as folk singer Cat Stevens before his conversion to Islam, was forced off a trans-Atlantic flight after it was discovered by customs officials—while the flight was already en route—that his name



*Yusuf Islam, the singer formerly known as Cat Stevens, shortly after his arrest for being on a no-fly list.*





## EXHIBIT 1.3 | International Perspectives on Crime & Justice

### What Is Terrorism?

At the close of the Attorney General's Commission on Pornography in 1986, and after hearing testimony from hundreds of witnesses and reviewing 2,375 magazines, 725 books, and 2,370 films, commission members confessed that they had no better definition of pornography than the one offered years earlier by the late Supreme Court Justice Potter Stewart: "I know it when I see it." A similar case might be made for terrorism. When analyzing television, press, and wire service reports on terrorism, it is never quite clear exactly what the phenomenon in question really is. And from reading much of the terrorism literature, it would appear that "terrorism," most of the time at any rate, is terrorism when people think it is terrorism—clearly a throwback to Justice Stewart's definition of pornography.

For decades, political scientists and specialists in international affairs have struggled with the problems of defining terrorism, so much so that almost every treatise on the topic begins with the definitional question. One result has been a lack of agreement on exactly what "terrorism" is. In fact, one research guide on the topic listed more than 100 definitions of terrorism offered between 1936 and 1981 alone. The difficulty stems from the fact that there are many forms of political violence that, at one time or another, have been called "terrorism." In the broadest sense, terrorism is the use of violence for political ends, but such a definition has a variety of shortcomings because reality is typically far more complicated than any generalization.

At various times terrorism has included such phenomena as the indiscriminate acts of aggression that seem to be a by-product of all forms of war, violent repression on the part of governments to quell opposition to their rule, acts of protest of all types when violence is involved, and, perhaps most conspicuously, the coordinated activities of revolutionary groups organized to bring about political change, such as those of the Irish Republican Army, Italy's Red Brigades, Peru's Shining Path, and, of course, Hamas and al-Qaeda.

This certainly suggests that what has been called "terrorism" is not a uniquely isolated form of political activity. Rather, it exists on a continuum from aspects of conventional warfare, through assassination, guerrilla warfare and insurgency (aggression by small military units for the purpose of establishing liberated zones in which an alternative government can be established), and sabotage, to state repression, persecution, and torture. But despite these many differences in perspective, there are a few points on which virtually all terrorism specialists seem to agree. First, terrorism is almost exclusively a *political* weapon. Second, it is almost always grounded in ideological politics. Third, it is a technique of psychological warfare, accomplished primarily through violence directed against innocent, civilian victims. Fourth, the victims of terrorist violence are not necessarily the primary targets. And fifth, the effects of relatively small amounts of violence tend to be dispro-

portionate to the number of people terrorized; or, to cite an ancient Chinese proverb, "Kill one, frighten ten thousand."

Such was the intention behind Islamic extremists' recent beheadings of foreigners, including *Wall Street Journal* reporter Daniel Pearl, who was decapitated in Pakistan, and Nick Berg, Eugene Armstrong, and Jack Hensley, who were among the victims of their captors in Iraq. While the act of beheading elicits images of savagery and horror to the average Westerner, beheading is permitted by the Koran in the context of warfare and has been used as a legal punishment for criminal acts in many Muslim countries for centuries. A beheading performed correctly with a sharp blade is supposedly a quick and humane method of execution—that is, as humane as any execution can be. However, when served over the Internet and carried out because the demands of renegade kidnappers are not satisfied, the act becomes a drastic tactic to incite widespread fear and intimidate others into cooperation. The beheadings of Hensley and Armstrong, presumably by Abu Mussab al-Zarqawi, a Jordanian terrorist with al-Qaeda ties, was especially brutal in this regard. In what might be considered a jihadi snuff film, al-Zarqawi personally cut the Americans' throats as they struggled and screamed; he then severed their heads and held them up for a bloody close-up and, in one case, casually gauged out one of the victim's eyes.

Terrorists are not simply murderers and vandals. They always have a purpose. What they do is in the name of "justice," although their conception of "justice" often is wildly at odds with that of much of the rest of the world. From the "Assassins" of 11th- and 12th-century Islam to the 21st-century al-Qaeda, there is always a cause to destroy or kill for. Moreover, the cause need not involve an immediate wrong. It might be revenge for something generations old, as when Armenians murder Turkish diplomats today because thousands of Turks exterminated thousands of Armenians long ago. None of the original killers is still alive, but no matter. Some feuds seem to survive in the blood. Irish Catholics are still revenging themselves on Oliver Cromwell.

Keeping these general guidelines in mind, *terrorism* is likely best defined as the systematic use or threat of extreme violence directed against symbolic victims, typically performed for psychological rather than material effects, for the purpose of coercing individuals, groups, communities or governments into making political or tactical concessions.

Sources: Paul Berman, *Terror and Liberalism* (New York: Norton, 2003); David Cole and James X. Dempsey, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security* (New York: New Press, 2002); Bruce Hoffman, "Rethinking Terrorism and Counterterrorism Since 9/11," *Studies in Conflict and Terrorism* 25 (2003): 303–316; Susan Taylor Martin, "Horror Is the Point of Recent Beheadings," *St. Petersburg Times*, September 23, 2004, 1A; Alex Schmid, *Political Terrorism: A Research Guide* (New Brunswick, NJ: Transaction, 1984); Cecilia Remón, "Shining Path Active Again," *Latinamerica Press*, July 30, 2003, 1–2; Rod Nordland, "No Place Is Safe," *Newsweek*, October 4, 2004, 30–31.

was on a government list of individuals barred from flying into the United States. Officials said he appears on the list because of alleged financial contributions to the terrorist organization Hamas and to sheik Omar Abdel-Rahman, convicted in the first World Trade Center bombing in 1993. Islam denies any such links to terrorism, but his flight was diverted to Bangor, Maine, where he was escorted off the plane, questioned, and deported nonetheless.<sup>30</sup>

Undeterred by criticism, the government is currently testing a plan called Secure Flight. The program mandates that airlines provide the names, flight information, addresses, phone numbers, and even meal requests of their passengers to the government to help officials screen for terrorists. This comes after \$100 million was squandered on another controversial screening program called CAPPS II that never got off the ground.<sup>31</sup> Critics say that the release of such sensitive information to the government is a violation of individual privacy rights and that money and effort are better invested in technologies that can screen all cargo for explosives and dangerous chemicals.

Unquestionably, the September 11 attacks introduced a new era in criminal justice in the United States. Every sector of the criminal justice system has been affected: New laws have been passed to protect citizens, and new procedures have been implemented for ensuring national security and the processing of those suspected of terrorist activity. These changes are addressed at length in later chapters as they affect law and due process, as well as the operations of the police, the courts, and correctional systems.

## | International and Cross-Cultural Perspectives |

No two cultures, societies, or nations view everything in the same way. A global overview of crime rates, definitions of crime, and criminal justice procedures demonstrates many dramatic differences and a few surprising similarities.

*Comparative criminology* and *comparative criminal justice* are the branches of social science that study justice issues in a cross-national perspective. Such study is rooted in the comparative methods developed by anthropologists in the late 1800s and adopted by the disciplines of psychology, sociology, and political science during the mid-1950s. By the late 1960s and early 1970s, the new concept of comparative criminology emerged, with comparative criminal justice developing later as an outgrowth of the field. Interest in cross-cultural comparison of criminal justice has particularly intensified since the terrorist attacks of 2001, when it became apparent that **ethnocentrism**, or holding one's own culture and way of doing things as superior to all others, was no longer appropriate for the new millennium.<sup>32</sup>

As an illustration of the relationship between culture and criminal justice, at one time or another there has been strong (and sometimes violent) opposition by conservative Islamic governments to global beauty pageants. In 2004, for example, Miss Indonesia faced condemnation from government officials and religious leaders who wanted her barred from competing in the 2005 Miss Universe pageant, claiming that the swimsuit portion of the competition violated religious doctrine governing women's modesty in dress.<sup>33</sup>

Similarly, the first Afghan woman in three decades to take part in a beauty contest also faced sanctions from the Supreme Court of her country if she dared return to her homeland (she is currently cultivating a television career in Los Angeles). Leaders in Afghanistan charged that the California college student's catwalk in a bikini during the 2003 Miss Earth contest was “against Shariah law, against Islam, and against the culture of the Afghan people.”<sup>34</sup> Despite not making the final cut in the pageant, she was awarded the first ever “beauty for a cause” award. And during the 2003 Miss Global Beauty pageant in Montreal, Canada, Muslim contestants contended that the Koran did not specifically forbid participation in such contests, and they opted to cover up their swimsuits with hip-hugging sarongs as a way to show respect for their culture, their religion, and the law while still taking part in the festivities.<sup>35</sup>

Other examples abound. Nigeria played the dubious role as host of perhaps the deadliest beauty pageant on record when in 2002, more than 200 people were killed



*Miss Afghanistan appearing in the 2005 Miss Asia Pacific beauty pageant.*

during riots sparked by a journalist's comment that Mohammed would have approved of the event and likely would have chosen (at least) one of the Miss World contestants as his bride. In 2001, Egyptian officials issued a *fatwa*, a legal statement handed down by a religious law official on a specific topic, decrying swimsuit competitions as against Islamic law. A Miss Morality contest was proposed instead to extol the virtues of chaste and proper women. Finally, in 1998 violent demonstrations by Islamic groups caused the cancellation of the Miss Bangladesh pageant.

But legal and religious debate extends beyond the issue of beauty pageants across the Islamic world. For example, many conservative Muslims have been campaigning since the 1998 fall of ex-dictator Suharto, who had banned beauty contests during his 32-year reign, to replace Indonesia's secular government with one ruled by Islamic law. Previously proposed legislation to clamp down on domestic violence against women and permit abortion under certain circumstances has been met with fierce opposition by such groups. In fact, the government has recently considered enacting decrees making kissing in public and erotic dancing crimes that carry jail sentences.<sup>36</sup>

However, it is important to recognize that the influence of cultural and religious values is not absent from our own criminal justice system either. The return of the "culture wars," a phrase first popularized by 1992 presidential hopeful Pat Buchanan, refers to the invigorated right-wing Christian movement that helped propel the Bush administration into office in 2000. In the 2004 presidential election, whether self-proclaimed evangelicals or not, a fifth of all voters said moral values were the most important issue in their consideration, and three out of four of those voters supported President Bush.<sup>37</sup> Many conservative groups have viewed the reelection of Bush to a second term in the White House as a ripe opportunity to advance a morality-based agenda.

While nothing as extreme (in our own ethnocentric view) as barring participation in beauty pageants has been enacted, other new policies are criminalizing women's behavior and choices nonetheless. Within the context of this galvanized conservative movement, for example, the first federal law to criminalize a specific abortion procedure, the Partial-Birth Abortion Ban Act of 2003, was passed. One advocate went so far as to equate politicians who support abortion to individuals who support terrorism, demonstrating once again that everything is relative.<sup>38</sup>

By studying the differences in law, policy, and procedure among different cultures and nations, one can better understand how unique social, economic, political, and cultural factors shape criminal justice and why justice systems around the world operate in the different ways that they do. Perhaps most important, what we learn about law and justice in other cultures and countries may help us better appreciate or improve our own system.

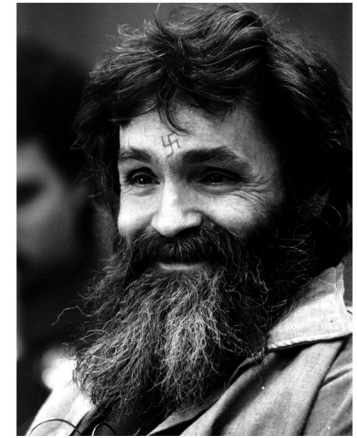
## | Organization of This Book |

The content of an introductory course in criminal justice is not simply a collection of definitions and court cases linked together by case studies and anecdotal commentary. Rather, the material is arranged into an organized set of topics presented in a manner that facilitates students' understanding of the basic foundations, structure, and components of the justice process. Thus, the coursework begins with an analysis of the nature and extent of crime, followed by a discussion of the constitutional foundations of law and justice and an overview of the criminal justice process. These introductory topics appear in the balance of Part One—Chapters 2 through 5—of this book. The text is then divided into three parts, each dealing with a major component of the criminal justice process: Part Two (Chapters 6 through 9) examines policing; Part Three (Chapters 10 through 13) provides a detailed look at the court process and sentencing; and Part Four (Chapters 14 through 17) focuses on imprisonment and community-based corrections. Finally, in Part Five, the reader is introduced to juvenile justice, a topic that is generally addressed as a separate course and area in the field of criminal justice.

### CRITICAL THINKING IN CRIMINAL JUSTICE

There is the old saying that “things aren’t always as they appear.” This is certainly the case when it comes to many newspaper and television reports, research studies, and other materials in the area of criminal justice. It is not uncommon in media presentations, for example, to either selectively report information or actually distort the facts to lure readers and viewers for the sake of ratings. And even in scientific research papers, mistakes and biases can be commonplace. As such, it is important to “think critically” about reports on crime and justice issues. Below are some suggested guidelines for thinking critically.<sup>39</sup>

1. *Examine how terms are defined.* Suppose, for example, that a newspaper headline proclaims “Fear of Crime Greater in Southern States.” As you read the article, you find that the study compared people from different parts of the country who called in to radio talk shows concerning their fears about crime in their neighborhoods. The first thing to consider is the fact that the story relied on self-reports, rather than on a more objective measure of fear—such as the frequency of crime in a person’s community, whether people lock the doors during the day and/or night, the number of locks on their doors, or whether they go out at night alone, or at all. The point here is that conclusions may change when definitions of terms are adjusted.
2. *Inspect the evidence.* Suppose the article noted above reported that the fear of crime was especially high among women, and particularly older women. This conclusion immediately raises a few questions. First, how many younger versus older women called in to the talk show? How many men called in? How large were the differences between older women and younger women? Were tests of statistical significance conducted?
3. *Look for potential biases.* Sticking with the “fear of crime” article for a minute, can you think of anything that may have biased the information? The fact that the conclusions were based on “call-ins” to a talk show is an automatic bias, because it doesn’t include people who don’t call in to talk shows and all others who do not even listen to such shows. Another bias is the fact that systematic studies have demonstrated that older people view themselves as more vulnerable to crime and, hence, have a greater fear. Moreover, because retired people prefer warm climates, there are higher proportions of older people in some parts of the South than in the North; in addition, because they are retired, they are more likely to be listening to a daytime talk show than younger working people. Importantly, virtually all surveys and polls on the fear of crime, attitudes toward the police, opinions about the death penalty, or any other issues—if they are based on self-reports to talk shows, write-in magazine surveys, Internet polls, or 1-900 call-ins—are biased because of a person’s self-selection to participate.
4. *Ask whether the conclusions have been oversimplified.* As you likely suspect already, criminal justice operations are quite complex. As such, you should be very suspicious whenever a report seems to oversimplify a relationship, trying to argue that something very complex can be distilled into a single important answer or catchy slogan. One of my favorites in this regard is the explanation for the police use of deadly force offered some years ago by radical sociologist Paul Takagi, with his statement that “police have one trigger finger for blacks and another for whites” (see Chapter 9).<sup>40</sup>
5. *Ask whether the conclusions have been overgeneralized.* From the latter half of the 1990s through 2001, for example, numerous articles in the national media spoke of how then New York City Mayor Rudolph Giuliani’s tough, hands-on approach to the crime problem dramatically reduced the violence rate in the Big Apple. Clearly, by the close of the 20th century, New York had become one of the safest large cities in the world. Could this really be attributed to the policies of one man? Think critically about that one, and check out Chapter 7 for what Giuliani’s “spin doctors” left out.
6. *Consider other possible interpretations.* Healthy skepticism is one of the trademarks of critical thinking, and critical thinkers enjoy pursuing alternative explanations to common conclusions. Proponents of California’s “three strikes and you’re out” law claim that the legisla-



### FAMOUS CRIMINALS Charles Manson

Charles Manson is perhaps one of the best-known criminals of our time. A member of the 1960s counterculture, Manson spent much of his youth as a wandering vagrant who drifted in and out of jails and reformatories. At the age of 35 in 1969, he became visible as the “Christlike” leader of a small “hippie” commune on the edge of Death Valley whose doctrines of “peace, love, and death” became the mantra of his scores of followers. On August 8, 1969, four of Manson’s disciples, under his orders, invaded the house of film director Roman Polansky and brutally murdered the five occupants inside, including actress Sharon Tate, Polansky’s wife. After writing various slogans on the walls of the home in the victims’ blood, Manson’s protégés—one man and three women—invaded the home of two additional victims, leaving their bodies mutilated and arranged in grotesque positions. Although Manson did not physically participate in the killings, he was held responsible for their instigation; like the other defendants, he was found guilty of first-degree murder and sentenced to death. However, since the California Supreme Court ruled the death penalty unconstitutional before any of the executions could be carried out, Manson and his followers remain in California prisons to this day (see [www.charliemanson.com](http://www.charliemanson.com)). ■



*“We find the defendant guilty as charged by the media.”*

Chon Day © 1978 from *The New Yorker Collection*. All rights reserved.

tion is effectively deterring violent crime, citing the more than 42,000 offenders currently incarcerated under the rule. Looking to California’s success, other states and the federal government have followed its lead and enacted similar legislative efforts. But do the sheer numbers of individuals locked up under a particular law demonstrate its success? What types of crimes are people “striking out” on, and are other factors contributing to reduced crime rates? What are the implications of such a policy? (See Chapter 13.)

7. *Consider who is offering the explanation.* It was Mayor Rudolph Giuliani’s “spin doctors” who had first released the reports about why New York crime rates were down. They certainly had a vested interest in promoting the policies of their boss. But what were other people saying at the time? Similarly, if a report is released praising the effect of a particular criminal justice approach, be skeptical. Determine who did the evaluation. Was it a self-evaluation or something done by an independent research group? If the latter was the case, did this group have an agenda of its own?
8. *Think through the topic.* In analyzing information, draw upon what you have learned from studying the textbook. Combine that information with what you know from experience and logic. For example, questions are raised in later chapters about the appropriateness of boot camps as a rehabilitative approach, about Internet-based sex offender registries, and about a number of other topics. When thinking critically about these issues, draw upon what you know and think about what kinds of additional information you might need to come up with an educated answer or opinion.

Throughout this text, you will have a number of opportunities to think critically about the material. In addition, examples of issues that require critical thinking are illustrated.

## OP-ED

In most cases, few people are aware of the occurrence of the vast majority of crimes—even of violent crimes. Of all the murders, muggings, and rapes reported to the police, less than 5% receive public attention beyond a brief mention from local media. In perhaps 1% of cases, an unusual crime might attract some sustained state or local attention.

On rare occasions, a criminal case galvanizes broad national attention. Among the more recent examples is the case of Scott and Laci Peterson, whose story became the target of obsessive national media coverage from the time of Laci's disappearance in December 2002 until Scott's verdict of guilty and sentence of death in December 2004. The 32-year-old former fertilizer salesman from Modesto, California, was convicted of murdering his pregnant wife Laci and their unborn son Connor and disposing of the remains in San Francisco Bay. There was no murder scene, no proven theory of how she was killed, no weapon, and no tangible evidence to speak of. There was, however, the kind of circumstantial evidence perfect for

sensational TV ratings: a pretty, smiling, round-bellied wife whose cheating, lying husband's shady behavior before and after her mysterious disappearance didn't match that of a grieving husband. Perhaps not surprisingly, hundreds of concerned onlookers outside the courtroom cheered and some pumped their fists in the air when his guilty verdict was finally announced, and many felt a sense of justice when the jury later recommended the sentence of death.

As far as celebrity trials are concerned, no matter what the allegations may be—from the rape and murder trial of Roscoe “Fatty” Arbuckle in 1921, the assassination of John F. Kennedy in 1963, the murders of Nicole Brown Simpson and Ronald Goldman in 1994, to the child molestation trial of Michael Jackson in 2005—there will always be intense public interest, continuous investigation, and endless speculation and analysis of these cases. But why? What has driven our fascination? There are several reasons.

One explanation lies in the details of each case. The Michael Jackson accusations, for example, involved the “King of Pop,” one of the most celebrated and most talked about entertainers of our time. John F. Kennedy

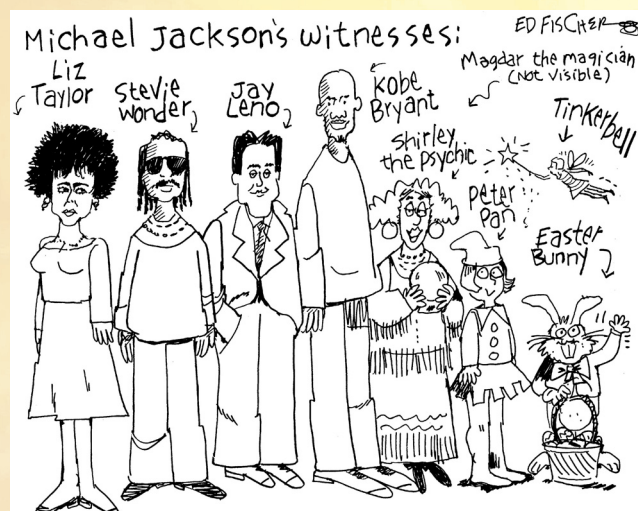
was the president of the United States. The Nicole Brown Simpson and Ronald Goldman murders implicated O.J. Simpson, one of the most widely known and most prominent African Americans on the planet. The sheer visibility of the players in these cases guaranteed attention.

However, there are other, more general approaches to understanding the public's interest in crime. People



view the drama of “true crime” as a way of taking them away from boredom of everyday life. Too, they want to know how the unspeakable criminal acts were committed, to convince themselves that they are immune from similar fates, or they may wish to reassure themselves that they are incapable of such wickedness. Most people have a stake in whether justice is being done in America, because almost everyone desires a just society.

As a final note, it is important to recognize that the media coverage of high-profile cases is not an accurate depiction of the norm in the criminal justice system. The circuslike atmosphere of celebrity trials, the tabloid drama of a Scott Peterson case, and even cases linked to terrorism and national security represent the exception rather than the rule in the daily courtroom docket.



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## Summary

The news media provide a steady flow of stories about crime and how the justice system attempts to cope with it. Many news reports become “media events,” as has been the case with Michael Jackson, Martha Stewart, and Kobe Bryant. However, there is a uniqueness to the majority of criminal cases that achieve national attention, and much of what is seen and

read in the media fails to reflect what is typical in the American system of justice. Within this context, the purpose of this book is to analyze the nature of crime and the processes of justice in the United States, to examine the historical and constitutional foundations of the American system of justice, and to consider its strengths as well as its weaknesses.

“Criminal justice” refers to the structure, functions, and processes of those agencies that deal with the management of crime—the police, the courts, and corrections. The study of criminal justice as an undergraduate academic enterprise is relatively new, having emerged as an outgrowth of calls for “law and order” during the 1960s.

The study of criminal justice follows a logical succession of topics—definitions of crime and law, the nature and extent of crime, the constitutional foundations of law and justice, and an examination of policing, the court system, and correctional processes.

## | Key Terms |

Burger Court (12)  
 crime control model (12)  
 criminal justice (5)  
 due process model (11)  
 ethnocentrism (19)

“law and order” (5)  
 Law Enforcement Assistance  
 Administration (LEAA) (10)  
 Omnibus Crime Control and  
 Safe Streets Act (9)

President’s Commission on Law  
 Enforcement and Administration  
 of Justice (6)  
 terrorism (17)  
 Warren Court (11)

## | Issues for Discussion |

1. What roles do you think citizens and politicians play in the development of criminal justice policies? How does the existing social climate affect the policies that are implemented?
2. What role do you think the media play in the shaping of criminal justice policy?
3. Why is it important to examine cross-cultural and international issues in criminal justice?
4. Do you feel that criminal justice procedures for women should be the same as those for men?
5. To what extent do you think criminal justice in America is a “system” or “nonsystem”?
6. How does the Omnibus Crime Control and Safe Streets Act of 1968 resemble recent legislative efforts to combat terrorism in the United States?
7. To what extent do you think the terrorist acts of 9/11 have changed American criminal justice practice?

## | Media and Literature Resources |

**Reel Justice** includes scenes that can be used to spark discussion about the following topics from this chapter:

Critical Thinking

Cross-Cultural Perspectives

**The Sixties.** For students interested in the events of the 1960s that impacted the development of criminal justice, see Todd Gitlin, *The Sixties: Years of Hope, Years of Rage* (New York: Bantam, 1987).

**The War on Drugs.** For material on the evolution of drug use in the United States, see James A. Inciardi, *The War on Drugs III: The Continuing Saga of the Mysteries and Miseries of Intoxication, Addiction, Crime, and Public Policy* (Boston, MA: Allyn & Bacon, 2002).

**Models of Criminal Justice.** The major work on this topic is Herbert Packer, *The Limits of Criminal Sanction* (Stanford, CA: Stanford University Press, 1968).

**Criminal Justice Abstracts.** Criminal Justice Abstracts provide comprehensive coverage of the major journals in criminology and related disciplines, extensive coverage of books, and access to reports from government and nongovernmental agencies. For each document, an informative summary of the findings, methodology, and conclusions is provided. Topics also include crime trends, prevention projects, corrections, juvenile delinquency, police, courts, offenders, victims, and sentencing. To access Criminal Justice Abstracts, go to

A number of major themes appear throughout this book. They are the due process and crime control models of criminal justice, the impact that drug abuse and the “war on drugs” have on crime and criminal justice processing, the growing role of women in criminal justice, cross-cultural and international perspectives in the administration of justice, the significance of victims in processes of justice, the criminal justice “non-system,” terrorism and criminal justice, and the importance of critical thinking about criminal justice issues.

<http://www2.lib.udel.edu/database/cja.html> and click on the yellow button “search database.” You can also access this database via the Library Networked Databases Social Sciences Web page or through the National Criminal Justice Reference Service Web site at [http://abstractsdb.ncjrs.org/content/AbstractsDB\\_Search.asp](http://abstractsdb.ncjrs.org/content/AbstractsDB_Search.asp).

**Terrorism and Law.** Important recent works in this area are David Cole and James X. Dempsey, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security* (New York: New Press, 2002), and Bruce Hoffman, “Rethinking Terrorism and Counterterrorism Since 9/11,” *Studies in Conflict and Terrorism* 25 (2003): 303-316.

**Criminal Justice Education.** For an analysis of the evolution of criminal justice education in the United States, see Mittie D. South-erland, “Criminal Justice Curricula in the United States: A Decade of Change,” *Justice Quarterly* 19 (December 2002): 589-601. An article of related interest is Willie J. Edwards, Norm White, Ingrid Bennett, and Frank Pezzella, “Who Has Come Out of the Pipeline: African-Americans in Criminology and Criminal Justice,” *Journal of Criminal Justice Education* 9 (Fall 1998): 249-265.

**Employment Opportunities in Criminal Justice.** There are numerous career resources available for students graduating with a degree in criminal justice: Stephen Lambert and Debra Regan, *Great Jobs for Criminal Justice Majors* (New York: McGraw-Hill, 2001); John



Douglas, *John Douglas's Guide to Landing a Career in Law Enforcement* (New York: McGraw-Hill, 2005); Donald B. Hutton and Anna Mydlarz, *Guide to Law Enforcement Careers* (Hauppauge, NY: Barron's Educational Series, 2001); Donald B. Hutton and Anna Myd-

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