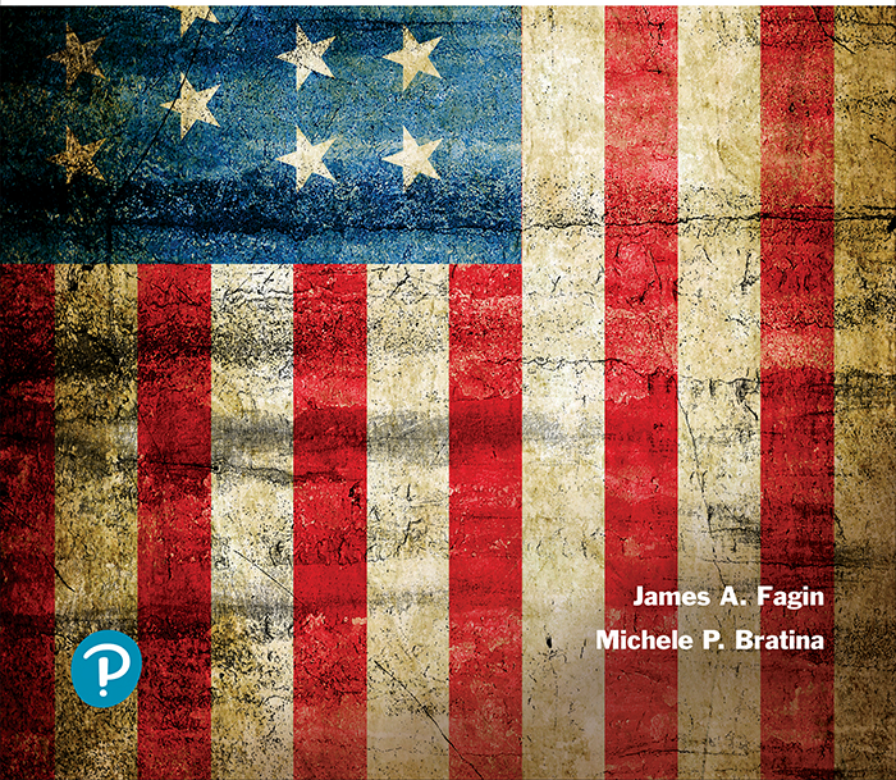




CJ2019



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CJ2019

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Cover Art: “Dirty USA flag” (background) ©Piotr Krzeslak (Shutterstock) Freedom sign in front of American flag” ©J.D.S (Shutterstock)
Printer/Binder: LSC Communications, Inc.
Cover Printer: Phoenix Color/Hagerstown
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Library of Congress Cataloging-in-Publication Data

Names: Fagin, James A. (James Arlie), author. | Bratina, Michele P., author.
Title: CJ2019 / James A. Fagin, Lincoln College, Normal, Illinois.
Other titles: CJ 2019 | Criminal justice 2019
Description: Boston: First Edition. | Hoboken : Pearson, [2019] | Includes bibliographical references and indexes
Identifiers: LCCN 2018028028 | ISBN 9780135202173 | ISBN 0135202175
Subjects: Criminal justice, Administration of—United States.
Classification: LCC HV9950 .F343 2019 | DDC 364.973—dc23
LC record available at <https://lccn.loc.gov/2018028028>



*This book is dedicated to Gretchen,
my wife.*

*This book is dedicated to my mother,
Frances.*

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Preface

Introducing the Justice Series

When
best-selling
authors

and instructional designers come together focused on one goal—to improve student performance across the CJ curriculum—they come away with a groundbreaking new series of print and digital content: the *Justice Series*.

Several years ago, we embarked on a journey to create affordable texts that engage students without sacrificing academic rigor. We tested this new format with Fagin’s *CJ2010* and Schmallegger’s *Criminology* and received overwhelming support from students and instructors.

The Justice Series expands this format and philosophy to more core CJ and criminology courses, providing affordable, engaging instructor and student resources across the curriculum. As you flip through the pages, you’ll notice that this book doesn’t rely on distracting, overly used photos to add visual appeal. Every piece of art serves a purpose—to help students learn. Our authors and instructional designers worked tirelessly to build engaging infographics, flowcharts, and other visuals that flow with the body of the text, provide context and engagement, and promote recall and understanding.

We organized our content around key learning objectives for each chapter and tied everything together in a new objective-driven end-of-chapter layout. The content not only is engaging to students but also is easy to follow and focuses students on the key learning objectives.

Although brief, affordable, and visually engaging, the Justice Series is no quick, cheap way to appeal to the lowest common denominator. Modern, relevant, dynamic, and approachable; *CJ 2019* is designed to keep students engaged with the incorporation of interactive components and eye-catching visuals throughout the chapters. It’s a series of texts and support tools that are instructionally sound and student-approved.

The Author’s Approach

Each instructor has his or her own teaching style and objectives and introductory classes are offered in different formats, including accelerated terms, hybrid, and online classes. *CJ 2019* is designed to be flexible in order to be able to meet the needs of each of these formats. Today’s college classroom embodies a diverse mix of traditional and non-traditional students, most of whom are seeking quick access to pertinent and relevant information that translates well into practice. While the Justice Series fulfills the needs of the contemporary student, the release of *CJ 2019* provides an enhanced repertoire of current events and resulting challenges as faced by our contemporary practitioners working in subfields of law enforcement, correctional management and administration, and the American court system. It also brings an interdisciplinary perspective to some of these

issues, asking readers to critically consider the cross-systems nature of crime, law, and justice, and the benefits of taking a more integrative approach to problem-solve.

New to *CJ2019*

CJ2019 retains the outstanding format and supplemental materials associated with the Justice Series. However, there are some exciting changes in *CJ2019*. Among these changes are the following:

- The order of Chapters 2 and 3 from the previous edition has been reversed: the topic of measuring crime is now presented before the discussion of crime theory.
- Chapter 3 on theories of crime has been rewritten and now incorporates theories of victimization.
- New web links related to careers in policing and corrections and alternate crime data sources now appear throughout the text.
- There were significant changes in the field of criminal justice in 2017 and 2018. Changes incorporated into this edition include new judicial and legislative developments; new debates about the police in the context of police–community relations, technology, and transparency; and police training in relation to dealing with trauma and responding to the risks and needs of special populations—in particular, individuals who have mental health issues, and new developments in immigration policy and homeland security.
- Chapter Introductions, Think About It boxes, and Case Studies have been updated to reflect current events and issues in criminal justice.
- A new end-of-chapter feature titled “Career Spotlight” has been incorporated throughout select chapters in the book. This section provides quick snapshot of varied career paths from the perspectives of practitioners.
- Graphs, tables, and data have been updated to reflect the most current data available. In some cases, new graphics and figures reflecting more current concerns have been added.
- The timeline has been updated to include current events that have impacted the criminal justice system. This timeline helps students understand the historical development of the criminal justice system and place events in chronological order.
- Chapter 14 has been restructured and renamed “Trending Topics”; maintaining its discussion of Homeland Security, but now it also incorporates updated materials related to immigration and the management and diversion of people with serious mental illness in the criminal justice system.

► Instructor Supplements

Instructor's Manual with Test Bank

Includes content outlines for classroom discussion, teaching suggestions, and answers to selected end-of-chapter questions from the text. This also contains a Word document version of the test bank.

TestGen

This computerized test generation system gives you maximum flexibility in creating and administering tests on paper, electronically, or online. It provides state-of-the-art features for viewing and editing test bank questions, dragging a selected question into a test you are creating, and printing sleek, formatted tests in a variety of layouts. Select test items from test banks included with TestGen for quick test creation, or write your own questions from scratch. TestGen's random generator provides the option to display different text or calculated number values each time questions are used.

PowerPoint Presentations

Our presentations offer clear, straightforward. Photos, illustrations, charts, and tables from the book are included in the presentations when applicable.

To access supplementary materials online, instructors need to request an instructor access code. Go to www.pearsonhighered.com/irc, where you can register for an instructor access code. Within 48 hours after registering, you will receive a confirming email, including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use.

Alternate Versions

eBooks This text is also available in multiple eBook formats. These are an exciting new choice for students looking to save money. As an alternative to purchasing the printed textbook, students can purchase an electronic version of the same content. With an eTextbook, students can search the text, make notes online, print out reading assignments that incorporate lecture notes, and bookmark important passages for later review. For more information, visit your favorite online eBook reseller or visit www.mypearsonstore.com.

► Revel CJ 2019, by Fagin

Designed for how you want to teach – and how your students want to learn

Revel is an interactive learning environment that engages students and helps them prepare for your class. Rethinking their content, our authors integrate media and assessment throughout the narrative so students can read, explore, and practice, all at the same time. Thanks to this dynamic reading experience, students come to class prepared to discuss, apply, and learn about criminal justice—from you and from each other.

Revel seamlessly combines the full content of Pearson's bestselling criminal justice titles with multimedia learning tools. You assign the topics your students cover. Author Explanatory Videos, application exercises, survey questions, interactive CJ data maps, and short quizzes engage students and enhance their understanding of core topics as they progress through the content. Through its engaging learning experience, Revel helps students better understand course material while preparing them to meaningfully participate in class.

Author Explanatory Videos

Short 2-3 minute Author Explanatory Videos, embedded in the narrative, provide students with a verbal explanation of an important topic or concept and illuminating the concept with additional examples.

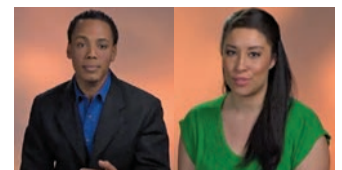
Point/CounterPoint Videos

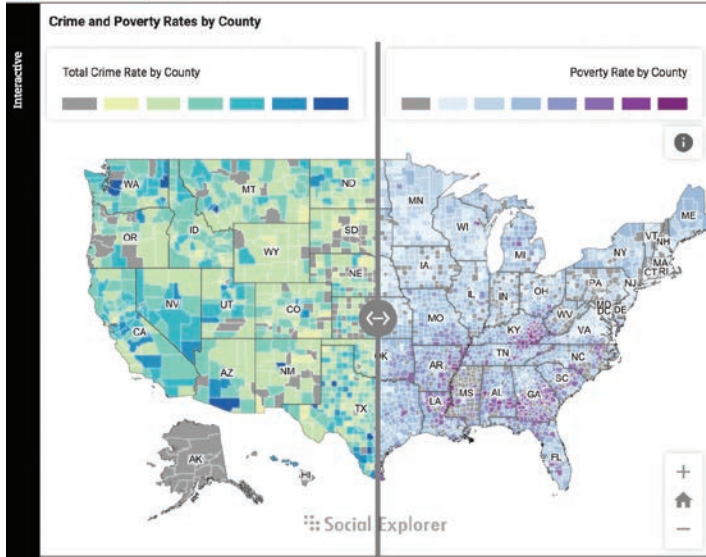
Instead of simply reading about criminal justice, students are empowered to think critically about key topics through Point/Counterpoint videos that explore different views on controversial issues such as privacy, search and seizure, Miranda rights, prison privatization, prisoner rights, the Patriot Act, and many other topics.

Author Explanatory Videos



Point/CounterPoint Videos





Source: Federal Bureau of Investigation, *Crime in the United States, 2016*; and U.S. Census Bureau, Small Area Income and Poverty Estimates (SAIPE) Program

New Social Explorer Criminal Justice Data Maps

Social Explorer Maps integrated into the narrative ask students to examine crime and corrections data correlated with socio-economic and other criminal justice data. Maps also show differences in state statutes on major issues such as marijuana legalization, the death penalty, and the distribution of hate organizations across the US.

The American criminal justice system is generally fair and in most cases results in the appropriate handling and adjudication of cases.

Strongly Agree

Agree

Neutral

Disagree

Strongly Disagree

PREVIOUS PAGE 1 OF 1 SUBMIT

New Student Survey Questions

Student Survey Questions appear within the narrative asking students to respond to questions about controversial topics and important concepts. Students then see their response versus the responses of all other students who have answered the question in the form of a bar chart. We provide the instructor with a PowerPoint deck with links to each survey and map, making it easy to pull these items up in class for discussion.

Search and Seizure

MY PROGRESS - 21%

Decision point: Pick your search area

There is no reason you can't stop and look around from the street or the alley. Now that you see the layout of the property.

Click on the place you want to look around and click Submit.

Peek in the front windows.

Enter fenced yard to peek in rear window.

Check out the open garage.

Go to front door.

Previous Next

Criminal Justice Simulations

In our introduction to Criminal Justice Revel texts, there are 13 simulations that ask the student to evaluate scenarios and make decisions regarding CJ issues or procedures. Examples of topics dealt with include recognizing crime elements, determining policing styles, search and seizure procedures, warrants and arrest documentation sentencing options, determining conditions for parole.

Track Time-on-Task throughout the Course

The Performance Dashboard allows you to see how much time the class or individual students have spent reading a section or doing an assignment, as well as points earned per assignment. This data helps correlate study time with performance and provides a window into where students may be having difficulty with the material.

Learning Management System Integration

Pearson provides Blackboard Learn™, Canvas™, Brightspace by D2L, and Moodle integration, giving institutions, instructors, and students easy access to Revel. Our Revel integration delivers streamlined access to everything your students need for the course in these learning management system (LMS) environments.

The Revel App

The Revel mobile app lets students read, practice, and study—anywhere, anytime, on any device. Content is available both online and offline, and the app syncs work across all registered devices automatically, giving students great flexibility to toggle between phone, tablet, and laptop as they move through their day. The app also lets students set assignment notifications to stay on top of all due dates. Available for download from the App Store or Google Play. Visit www.pearsonhighered.com/revel/to to learn more.

► Acknowledgments

**To be seen
above the
crowd, stand
upon the
shoulders of
others.**

The production of a major textbook requires the talents of dozens of persons. This is especially true of *CJ2019* as it is included in Pearson's CJ Series and includes numerous additional instructional resources. A significant change for *CJ 2019* is the addition of Dr. Michele P. Bratina Bratina as coeditor. Dr. Bratina has added an exciting and new perspective to the text. As authors we have provided the fundamental input in the form of text for *CJ2019*, but it took a team of highly creative and talented persons to turn that text into a highly sophisticated textbook. The production of a high-quality text with many supplements requires a sizable team of talented professionals, some of whom we have never met face-to-face but whose contributions are essential to the final product. We thank Gary Bauer for his leadership in keeping everyone moving forward and on the same page. His attention and dedication to the CJ Series has resulted in continuous improvements over the years. We regret that we cannot thank every person who contributed to the successful production of this text by name. The list would be way too extensive. We do extend our appreciation to everyone involved in this project. There are some whom we would like to single out and mention by name because of their continuous input and assistance. We are especially appreciative of the assistance of Gary Bauer. Gary provided personal support and encouragement that made *CJ2019* possible. We cannot express enough appreciation for the tremendous job done by the production team. Also, we appreciate the talents of Carter Smith for his efforts matching video scripts to *CJ 2019*. Akilandeswari Arumugam and Sohail Akhter did a magnificent job of image

research and matching images to the text. Eby Sebastian did wonders in translating our descriptions into effective art work and graphics that provided visual illustrations of concepts. We are impressed by the work of Melissa Welch at Studio Montage in the high-quality artwork and cover design for *CJ2019*. We are grateful for the talents of Ashwina Ragounath, Senior Project Manager at Integra Software Services, for doing a great job of getting the text ready for publication. Of course, publishing a text is only the beginning of getting the text to professors and students. We are especially appreciative of the efforts of the marketing team including Liz Bennett, Product Marketing Assistant. The text was greatly improved by the input of many other dedicated publishing professionals at Pearson and the critical reviews supplied by Aaron Carver, University of Mount Olive; Tyler Gayan, Georgia Northwestern Technical College; James Grubisic, Richard J. Daley College; Gina Robertiello, Felician College; Tim Robicheaux, The Pennsylvania State University; Diane Sjuts, Metropolitan Community College; Jacqueline Smith, Kennesaw State University; Ted Wallman, University of Northern Florida; and Cassie Walls, Greenville Technical College. Finally, I would like to acknowledge the contributions of Dr. Charles Brawner to *CJ2017*. Dr. Brawner has provided valuable assistance to me in numerous previous texts ranging from critical review to development. In *CJ2017*, Dr. Brawner assumed a greater role as he developed all of the end-of-chapter material and was the primary person responsible for developing the glossary terms and learning outcomes for the text. In this role, he provided critical development assistance in matching text with learning outcomes and developing pedagogical material to help reinforce learning outcomes. His work in this area is greatly appreciated.

► About the Authors

Dr. James A. Fagin has taught in the criminal justice field since 1973. He has taught undergraduate and graduate classes and has taught criminal justice classes for military officers at Command and General Staff College. Dr. Fagin has authored over a dozen criminal justice texts. One of the things that has helped Dr. Fagin in producing an introductory textbook is the fact that he has had the opportunity to be associated with the entire spectrum of the criminal justice system during his career. In addition to his academic career, Dr. Fagin has been a professional consultant to local and federal law enforcement agencies, the state courts, and local, state, and federal correctional facilities. In addition to teaching university classes, Dr. Fagin has taught at police and correctional academies. During his career, he has been a professor of criminal justice studies and Program Director at Lincoln College–Normal (LCN), located in Normal, Illinois; professor and Chair of the Criminal Justice Department at Chaminade University of Honolulu, the oldest and largest criminal justice program in Hawaii; and assistant professor and Director of Outreach Programs at Wichita State University. In addition to his experience in criminal justice, Jim served as Graduate School Dean at East Stroudsburg University and was Acting President of Kima International Theological College, a three-year college in Kenya, East Africa. Dr. James Fagin is a pioneer in criminal justice education and has been involved in innovative criminal justice education programs for over four decades. He developed one of the early models of statewide delivery of criminal justice undergraduate and graduate degrees for Kansas. During the developing years of criminal justice education, Jim worked as a consultant and instructor for the Law Enforcement Assistance Administration (LEAA) to develop model criminal justice curriculum in research, administration, and planning to promote quality nationwide education in criminal justice. Under the oversight of LEAA, these model curriculums were developed by an elite team of practitioners and educators and were field-tested throughout the United States. Dr. Fagin wrote some of the classical literature on computer crime, police bargaining and unions, presidential candidate security, domestic disturbance resolution, and hostage negotiations. His articles on international terrorism have been translated and published in major criminal justice journals in Japan. He received the American Society of Criminal Justice Hawai'i chapter's award for outstanding contributions to Public Administration for his achievement in establishing a master's degree in public administration at Chaminade University of Honolulu. He has received numerous other awards for contributions to hotel security, forensic investigations, and excellence in teaching. These works emerged from active involvement with federal, state, and local criminal justice agencies. Jim was a commissioned deputy sheriff training officer and polygraph examiner for the Wyandotte County (Kansas) Sheriff's Department and a Commissioned Reserve Police Officer in the Kansas City (Kansas) Police Department. He served on the Kansas Victims' Rights Commission to help establish the charter

victims' rights legislation for the state. He assisted in implementing the first domestic disturbance response policy for the Wichita, Kansas Police Department. He received his B.A. degree from the University of Nevada, Las Vegas, and his M.S. and Ph.D. from Southern Illinois University–Carbondale, Illinois. Textbooks such as this are an ongoing work in progress, and the author welcomes communication and correspondence about his work. Dr. Fagin can be contacted at jamesfagin@gmail.com.

Dr. Michele P. Bratina has taught in the criminal justice field since 2005, teaching students in both undergraduate and graduate classes. Dr. Bratina has authored a diverse mix of publications, including book chapters, texts, encyclopedia entries, and journal articles on topics such as human trafficking, psychiatric crisis intervention training with police, and the aging correctional population. Her exposure to multiple systems of care in the course of her career has helped her produce materials and to update existing materials as coauthor of an introductory textbook. In addition to teaching university classes, Dr. Bratina has taught part of a curriculum for police crisis intervention at a rural local in southcentral Pennsylvania. During her career, she has been an instructor of record for the criminal justice program at the University of Little Rock, Arkansas, and in the criminology department at the Indiana University of Pennsylvania; Program Director of the criminal justice and justice studies programs at Keiser University in West Palm Beach; and an Assistant Professor of criminal justice at Shippensburg and West Chester Universities, both located in Pennsylvania. In addition to her experience in academia, Dr. Bratina has worked for the Florida Department of Children and Families-Substance Abuse and Mental Health Program Office as a Coordinator of Forensic and Children's Mental Health; as a result of this experience, she has been a professional consultant for local and county-level agencies pursuing data analysis and continued grant-funded programs pertaining to the management and care of justice-involved persons with mental illness and histories of trauma and addiction. Dr. Bratina has particular expertise in Crisis Intervention Team (CIT) training programs, and has served as a consultant on several steering committees at various stages of program development and assessment. She received the Academy of Criminal Justice Sciences (ACJS) SAGE Junior Faculty Professional Development Teaching Award multiple times for significant promise as a teacher. She has received other awards for excellence in mentoring, teaching, and service contributions, including faculty of the year and an award for a human trafficking awareness event she directed at Shippensburg University. Dr. Bratina received her B.S. degree (Applied Behavioral Science) from the Pennsylvania State University—Harrisburg, her M.A. (Criminal Justice) at the University of Arkansas—Little Rock, and Ph.D. from Indiana University of Pennsylvania. She also completed one year of study at the William H. Bowen School of Law, also in Little Rock, Arkansas. Dr. Bratina can be contacted at mbratina@wcupa.edu.

1

Introduction to Criminal Justice

- 1** Explain the concepts of limited government powers and checks and balances.
- 2** Explain the difference between the crime control model and the due process model.
- 3** Describe the five stages of the criminal justice system.
- 4** Describe the five meta-influences upon the criminal justice system and their influence upon the criminal justice system.
- 5** Explain how the academic field of criminal justice developed and how it differs from closely related fields such as sociology and law.



EVOLVING VIEWS OF JUSTICE

In writing about the public execution of Robert-Francois Damiens, a domestic servant who had been accused of the attempted assassination of King Louis XV, author Michel Foucault¹ tells a gruesome tale of punishment in eighteenth-century France. Foucault described the torture that Damiens endured with much grisly detail; a spectacle that finally ended in death when he was drawn and quartered. Damiens' condemnation was not unique for the period in which it occurred. In fact, during much of the early modern era (late fifteenth century to the late eighteenth century), matters of crime and justice were often handled arbitrarily, exposing those with little power to the whims and devices of the aristocracy. Punishment was used to instill fear and to produce observant citizens who would be deterred from offending or violating the law, as determined by the flows of power and authority. Depending on the crime(s), the accused person was forced to undergo public humiliation, torture, and death by methods that would be deemed "cruel and unusual" by today's standards. During the early colonial period in America, settlers, heavily influenced by religion, continued some of the medieval practices of their sending countries; acts such as sodomy were considered criminal offenses punishable by death, and the means by which to accomplish this fate involved public and brutal methods, including whipping or flogging, banishment, placing people in the pillory, hanging, branding, burning, and dismemberment. During the American age of enlightenment, colonists began to realize the need for clear and equitable laws and the fair and humane treatment of the criminally accused. In line with declaring independence from England, colonists would eventually reform and adapt the criminal law, and implement a more fair, equitable, and just system.

Today's American criminal justice system relies heavily on incarceration as a means of punishment, and reserves death for the most egregious of crimes—that is, first-degree murder. Contrasted with the dramatization of the death penalty that occurred in many past public forums, prison as punishment was perceived as more humane—and much more private. While the public nature of accusations, "trials," and punishments of earlier times provided quite the spectacle, today's criminal justice process produces its own following. In fact, it would seem that the public's fascination with crime and criminality is something that has persisted through the ages. Much of what occurs throughout the process is publicly discoverable due to computer technology and the average person's ability to search the Internet for records. Furthermore, the increasing use of smartphones has provided a public lens from which anyone in the world can access encounters with police instantaneously. Cell phone recordings of police–citizen encounters in particular have contributed to an already growing protest movement and anti-police sentiment across the country. Moreover, there are hundreds of television shows related to crime and criminal justice for consumption—many of which do not accurately depict reality. Critics of the increasing consumption of television crime dramas argue that, without firsthand knowledge of the justice system, it is impossible to distinguish between fact and fiction, and the overreliance on media as to crime and justice issues produces a misinformed populace.

DISCUSS What are your perceptions about current issues related to policing, courts, and corrections, and from where do these perceptions originate?

▶ Government by the People

LEARNING OUTCOMES 1

Explain the concepts of limited government powers and checks and balances.

Most people do not need laws or a criminal justice system to know that certain actions are wrong. Most people recognize

that murder, sexual assault, robbery, theft, and violence against others are wrong. Also, most people have a sense of what is fair and just. They know that the law should not treat people differently because of their socioeconomic status, race, religion,

TIMELINE



Timeline of Key Events

1587–1732

First North American colonies established. Settlers largely adopted English common law, which relied heavily on religion and sin as a means to shape individual behavior. Crime codes were highly influenced by Biblical references. Punishments included stoning, whipping, or branding.

1636

Formal codification of Plymouth Colony's five crimes that were punishable by death: Willful murder; forming a solemn compact with the devil by way of witchcraft; willful burning of ships or houses; sodomy, rape, and buggery; and adultery.

1682

The "Great Law" enacted by Pennsylvania's first legislature; declared that punishments should be humane, and that incarceration in "workhouses" should be restricted and used for redemption.

1690

Philosopher John Locke publishes "Two Treatises of Government" a political philosophy grounded in contract theory and natural laws. Provided a foundation for the popular idea of a least restrictive government designed to balance individual liberties with the need for security and protection.

or other factors not related to the alleged offense. Finally, most people have a sense of what individual freedoms and rights they believe the government should not infringe upon.

Philosophers and politicians have long discussed the concepts of right and wrong and the role of the government. In *Two Treatises of Government* (1690), philosopher John Locke argued that all human beings are endowed with what he called “natural rights.” These rights are given by a power higher than government and he argued people cannot be deprived of them. Governments exist, according to Locke, to serve individuals. People surrender certain rights with the understanding that they will receive as much, or more, in other benefits, such as safety, order, and preservation of property rights. Locke conceded that the government must have the power of physical force to protect people and their property. However, this power was to be balanced against the need to preserve individual liberty.

When these concepts of justice and fairness are perceived to be violated, protests and even violence can result. For example, in the late eighteenth century the American colonists claimed that the British government exceeded its legitimate powers in its governing of the colonies and in 1776 declared their independence from the British government resulting in the American Revolutionary War. After successfully overthrowing the British government, the former colonists established a new government. The founding fathers declared that their purpose was to establish a “more perfect union.” The principles of this “more perfect union” were incorporated into the Declaration of Independence and the U.S. Constitution. Thomas Jefferson authored the Declaration of Independence and he was influenced by John Locke’s philosophy of “natural rights.” Thus, the Declaration of Independence set limits on government’s role and power.

► Order Maintenance versus Individual Liberties

During the “Amherst Uprising” in the fall of 2015, hundreds of students protested racial injustice and victimization claiming Amherst was an institutional legacy of white supremacy. Student protestors issued a list of demands that among other things called for students who had posted “Free Speech” and “All Lives Matter” posters to undergo racial and cultural

counseling and possibly discipline.² These protests are part of a larger movement across colleges and universities nationwide. Some demands of the students include changing the name of athletic teams that students allege reflect racism, changing terminology used on campus, sanctions for academic discussion and opinions that are deemed racist, offensive, or hurtful, and warnings or prohibitions regarding “trigger words,” especially by professors during lectures. Examples of demands include the call for sanctions and cultural training for persons expressing opposition to the Black Lives Matter movement, the dropping of the name “house master,” and requirements that professors advise students in advance if his or her lecture will include discussion of subject matter that minorities or “victims” may find hurtful or offensive—especially if the discussion puts forth opinions or facts contrary to beliefs held by the students.

Those opposed to the movement and the demands of the students argue that these demands seek to abridge First Amendment rights of free speech and expression of ideas. For the most part, the requests of students seeking these changes are denied by college administrators. At times, even alumni express strong opinions against the changes and threaten to withhold donations if the college consents to the changes. As a result, students hold protests and demonstrations.

At the beginning of this chapter, it was stated that most people have a sense of right and wrong—fair and just. What happens when there is a clash of opinions? What happens when the concern is not so clearly right or wrong such as murder or violent crime? What happens when students hold an opinion in good faith that is opposed and denied by those in power?

Society uses several means to balance conflicting rights and social values. In general, these means can be divided into informal and formal sanctions. **Informal sanctions** include social norms that are enforced through the social forces of the family, school, government, and religion. These social institutions teach people what is expected for normative behavior. In addition to teaching normative behavior, these primary social institutions also provide punishment when people violate **social norms**, that is to say the unwritten rules of society. In the informal system, parents punish children for disobedience, bosses reprimand employees, teachers discipline students, and religious authorities call for offenders to repent of their sins.

1788	1789	1791	1865	1868	1870
The Constitution of the newly formed U.S. government is ratified by the States.	Judiciary Act of 1789 establishes the U.S. federal judiciary.	The first ten amendments, known as the Bill of Rights , are added to the U.S. Constitution. These amendments are the foundation of the civil rights and due process rights of citizens.	The Thirteenth Amendment abolishes slavery.	The Fourteenth Amendment guarantees U.S. citizenship and is the basis for the due process clause of civil rights.	The Fifteenth Amendment prohibits the denial of voting rights based on race, color, or previous state of servitude. The Fifteenth Amendment does not extend voting rights to women, only to men.



1896

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

1920

The Nineteenth Amendment extends voting rights to women.

1941

Broadcast television begins in the United States.

1954

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

1955

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

The balancing of rights and public safety can also be achieved through use of **formal sanctions** (such as laws) found within the criminal justice system. Frequently, the norms and values embedded in informal systems are reflected in the formal system of **order maintenance**. The more homogeneous and stable the people and their belief systems, the fewer the violations of social norms. In a homogeneous, stable society with a common belief system, there is less need for reliance on a formal **system of social control** to maintain order and regulate interactions. Social control systems operate most effectively and efficiently where there is constant and unified, overt and covert, and cultural and social support from all control agencies. However, contemporary U.S. society is not characterized by a homogeneous and stable group of people with a common belief system. Rather, the United States is characterized by great diversity in race, religion, ethnicity, and values.

When there is conflict, especially if the conflict threatens or involves violence, usually the conflict is handled by the criminal justice system. Thus, students protesting racism at colleges and universities can attempt to have their demands met by negotiations. However, if negotiations fail and the students engage in protests, especially protests that may threaten violence, the conflict will be resolved through the criminal justice system.

The criminal justice system is a complex and extensive network of agencies, processes, and personnel. It is so complex that few laypersons understand all of the workings and interactions of the criminal justice system. Furthermore, the criminal justice system can be contradictory, flawed, and biased. Finally, the criminal justice system is constantly changing. The criminal justice system of the twenty-first century is not the criminal justice system of twentieth or mid-twentieth century. While many people identify law enforcement—the police—as the center of the criminal justice system, in reality the courts are the center of the criminal justice system. The courts have the authority to decide what the law means, which laws are unconstitutional, and which social values and individual rights will be upheld in law. Furthermore, the courts play a central role. One of the important roles of the courts is crafting the balance between government power and individual rights and freedoms. This balance, which is normally a restriction of government power, is frequently referred to as due process rights.

This chapter will provide an overview of due process rights, discuss the organizational structure of the criminal justice system, discuss changes that have impacted the criminal justice system, and will close with a brief discussion of the academic discipline known as criminal justice. The following chapters



1961

Civil rights workers attempt to desegregate bus stations and waiting rooms in the South. A bus in which they are traveling is fire-bombed, and the demonstrators are beaten. NAACP leader Medgar Evers is murdered.

1963

Martin Luther King, Jr. (1929–1968) delivers his “I Have a Dream” speech in the March on Washington.

1964

The Civil Rights Act of 1964 bans discrimination on the bases of race by facilities that are open to the public, such as hotels, restaurants, theaters, retail stores, and similar establishments. Also, it extends greater protection for the right to vote. The Civil Rights Act of 1964 does not extend the ban on racial discrimination to state and local governments. Thus, state and local law enforcement agencies and correctional agencies are not prohibited from racial discrimination.

1964

Martin Luther King, Jr. is the youngest person to receive the Nobel Peace Prize for his work to end racial segregation and racial discrimination through civil disobedience and other nonviolent means.

will discuss the various agencies and processes of the criminal justice system in greater detail. A timeline of landmark events is provided to help readers relate to various events that have impacted the criminal justice system. Throughout the text in each chapter, the reader will find feature boxes labeled “Think About It.” These boxes address contemporary events and controversies that may have a significant influence on the criminal justice system in the future. The reader is invited to consider how these events may impact the criminal justice system. Finally, at the end of each chapter is either a case study that explores an issue raised in the chapter in greater depth, or a career spotlight that invites the reader to explore various career options by reading through biographical and descriptive data from select practitioners working in criminal justice or related fields.

► Crime Control versus Due Process

In the Declaration of Independence, Thomas Jefferson embedded Locke’s arguments that government is limited in its power. This philosophy was further asserted in the Constitution and its

LEARNING
OUTCOMES
2

Explain the difference between the crime control model and the due process model.

amendments. The government is charged with maintaining harmony among conflicting interests and sanctioning those who violate the rights of others. However, the government

is restricted in the powers and actions it may use in its pursuit of maintaining law and order in society.

The rights guaranteed to persons by the Constitution and its amendments are called **due process rights**. The primary sources of due process rights are the state constitutions of the 50 states, the U.S. Constitution, the Bill of Rights, and decisions of the U.S. Supreme Court (case law). Most of these due process rights are contained in the first ten amendments and in the Thirteenth and Fourteenth Amendments of the U.S. Constitution. In fact, the Fourteenth Amendment is sometimes called the due process amendment because its language prohibits state and local governments from depriving persons of life, liberty, or property without due process. The due process clause requires the

government to recognize substantive and procedural rights of people and to apply the law equally to everyone. Substantive due process refers to the constitutionality of laws, and procedural due process refers to the process and procedure the government can use to seek a conviction for violation of a law.

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

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

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

1965

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

1965

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

1965

President Lyndon Johnson declares War on Crime.

1965–1973

U.S. troops are committed to the Vietnam War. In 1975, North Vietnam captures Saigon, South Vietnam, and Vietnam are united under a communist government.

**1968**

Martin Luther King, Jr., is assassinated.

1968

The Omnibus Crime Control and Safe Streets Act is passed. The act establishes the Law Enforcement Administration Assistance (LEAA), which provides funding, training, and professionalization of the criminal justice system. LEAA implements many of its standards through the power of the “purse strings.” Agencies lose LEAA funding if they do not adopt the standards advocated by LEAA. LEAA is abolished in 1982.

1968–1982

The Law Enforcement Education Program (LEEP), under the Law Enforcement Administration Assistance, undertakes the mission of raising the educational level of criminal justice personnel by funding grants and loans to those seeking college degrees.

1970

On the **Kent State University (Ohio)** campus, National Guard troops open fire on unarmed students protesting U.S. involvement in the Vietnam War. Four students are killed.

The Second Amendment (the right of individuals to bear arms) is the most recent amendment to be incorporated. It was incorporated in *District of Columbia v. Heller* (2008) and *McDonald v. City of Chicago, et al.* (2010). (See Figure 1–4 for a summary of the due process rights of the accused.)

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

Some would give the government more power and citizens few rights to tip the scale toward greater public order. Others would give the government less power and citizens more rights to achieve an acceptable level of crime control but maintain strict limits on government power.

There must be a balance between law and order and due process rights. Law without order is anarchy, but order without law is tyranny. In the United States, the emphasis on public order or crime control versus emphasis on due process rights

resembles a pendulum that swings back and forth between the two values.

For example, when running for president, Richard Nixon (1969–1974) based his campaign on a promise of a return to “law and order.” Nixon’s term as president (1969–1974) was characterized by a period of social unrest, violent protests and demonstrations, and high crime rates. Crime was the number one fear of citizens, and many people were receptive to the promise of crime control, public order, and swift—preferably harsh—justice for the offender. This emphasis on efficient and effective justice is known as the **crime-control (public-order) model** of criminal justice.

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

**1972**

The President’s Commission on Law Enforcement and Administration of Justice concludes that most people have lost confidence in the police.

1995

The number of serious violent crimes begins a decline that continues through the beginning of the twenty-first century.

2001

Hijacked commercial airplanes strike the towers of the World Trade Center and the Pentagon. A fourth plane crashes in Pennsylvania.

2001

President George W. Bush declares War on Terrorism. **The USA PATRIOT Act** is passed. Accused terrorists (enemy combatants) are denied due process rights.

2010

The Second Amendment is incorporated. The U.S. Supreme Court rules that the Second Amendment provides individuals the right to own firearms.

2014

August 9, Micheal Brown, an 18-year-old, unarmed black male, is shot by police in Ferguson, Missouri, resulting in a wave of nationwide protests.

1971

The Twenty-Sixth Amendment lowers the voting age from 21 to 18.

1972

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

1972

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

For example, the U.S. Supreme Court under Chief Justice Earl Warren (1953–1969) created many new due process rights for the accused. When the Court tends to create new due process rights, it is referred to as a “liberal court.” When the Court tends to make decisions that support public safety rather than due process, it is referred to as a “conservative court.” Under the leadership of Chief Justice John Roberts (2005–), the U.S.

Supreme Court has tended to be a conservative court in that its decisions emphasize crime control. As a result, the Roberts Court has often ruled to allow law enforcement greater latitude in arrest, interrogation, and search and seizure than the U.S. Supreme Court did under Chief Justice Earl Warren.

One of the primary roles of the state and federal courts and laws is to provide authoritative guidance as to the proper

Think About It...

In addition to agencies, people, and processes, the criminal justice system is defined by the use of technology. One example is emergence and continued advancements of Geographic Information Systems (GIS). Used primarily by geographic analysts for design and planning purposes, GIS technology has its practical use in criminal justice. In particular, law enforcement officials have utilized GIS technology to produce computerized maps designed to gauge the crime problem in any specific geographic area. Whether the landscape is rural, suburban, or urban, there are features of any environment that may aggravate or mediate crime risk; such features may include areas of open land, location of alleyways, vacant lots or buildings, and lighting.³ The ability to track crime concentrations in certain areas of a city/county/jurisdiction has informed criminological theory as well as crime prevention strategies; in other words, it has helped to address the why and where crime is taking place. For example, with the information obtained from the maps, skilled analysts can perform spatial analysis and other statistical techniques to identify trends or “hot spots”—concentrations of criminal events in certain geographic areas. Law enforcement agencies have also used GIS technology to create geographical profiles of certain types of offenders, which provide a method of determining the specific location of serial offenders by connecting cases.



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While some police organizations across the United States, especially smaller departments, are still using colored pin maps and other outdated techniques to measure and assess the crime problem, many others have adopted or have access to advanced computerized statistical programs, including *CompStat* and *CrimeStat*—computer programs that offer spatial statistics for the analysis of crime incident locations.⁴ Available research has indicated the benefits of GIS in reducing crime; however, more independent evaluations are needed. Given the competitive nature of entry-level jobs in policing and other areas of the criminal justice system related to law enforcement (e.g., probation and parole), criminal justice students have been encouraged to pursue areas of specialization, including opportunities to become skilled at using GIS technology or performing spatial analysis. Depending on the educational goals of the individual and the amount of structured learning sought, courses can be taken in the traditional classroom or online through distance education programs. Further, depending on their needs, students can either pursue a degree or certificate in GIS. Would you consider taking the coursework needed to acquire this specialized skill? It is important to note that GIS is used across other fields and organizations outside of policing. What are some of the other popular GIS jobs?

balance between due process and crime control that should be exercised by criminal justice personnel and agencies. Often the guidelines of the Court are the result of cases of alleged violation of constitutional and due process rights by law enforcement, the courts, or correctional personnel. For example, one of the best-known guidelines issued by the U.S. Supreme Court came from *Miranda v. Arizona* (1966), in which the Court mandated the specific due process rights that law enforcement must follow in arrest and interrogation of accused persons.

Due process rights protect the accused against abuse of power by police, prosecutors, courts, and corrections at the expense of swift and sure justice for the victim. By insisting that the government operate within certain limitations in securing the conviction of the accused, citizens are protected against the misuse of the power of the government that could be brought to bear in prosecuting the individual. The central premise of due process rights is the presumption of innocence. Regardless of overwhelming evidence against the accused, the court proceeds on the presumption that until the guilt of the accused is proven beyond a reasonable doubt in a court of law, the defendant is treated as if he or she is not guilty of the charges in regard to the rights afforded to individual. In other words, an accused person cannot be denied constitutional rights simply because he or she is accused of a crime or because of the apparent overwhelming belief in his or her guilt prior to trial.

Due process rights are based upon the assumption that given the overwhelming resources of the government compared to those of the accused, to be fair, the scales of justice must restrict the power of the government. This philosophy is reflected in such rules that the prosecutor under the rules of discovery must reveal all of its information to the defense. In a sense, the due process model does not focus on justice but on protecting the accused from possible abusive power of the government. The due process model reflects belief in the saying that it is better that a guilty person should escape the punishment of justice than an innocent person be wrongfully punished.

► The Structure of the Criminal Justice System

During the 1960s, the public lost faith in the criminal justice system. Rising crime rates, riots, demonstrations against the Vietnam War, and racial conflict resulted in many people believing that the

LEARNING OUTCOMES 3

Describe the five stages of the criminal justice system.

criminal justice system was “broken” or was a “nonsystem.” Concerned over the public’s ebbing faith in the ability of government to maintain

public safety, President Lyndon Johnson appointed a commission of experts from the criminal justice system, government, public, and academic community to examine the **criminal justice system**, describe the criminal justice process, and make recommendations to improve it. The commission was called the President’s Commission on Law Enforcement and Administration of Justice. One of the main charges of the Commission was to determine whether the process of administration of justice in the United States was a system and, if so, to define the criminal justice

system. The Commission issued a report in 1967 entitled *The Challenge of Crime in a Free Society*. The Commission’s report concluded that there was indeed a criminal justice system and provided an outline of the agencies and processes that comprised it.⁵

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

Today, the criminal justice system is widely recognized as a significant component of federal, state, and local governments. The criminal justice system employs more than 2.5 million people and spends more than \$261 billion per year.

Agencies in the Criminal Justice System

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

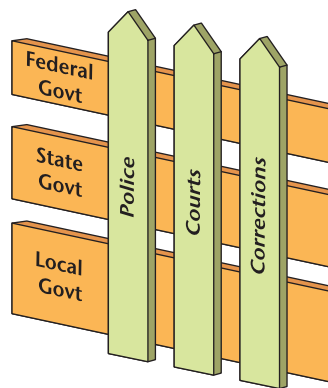
Dual Criminal Justice System

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

Thus, while 2.5 million people are employed by the criminal justice system, each of the thousands of criminal justice agencies hires its own employees. There is no central employment agency for the criminal justice system. Each agency sets standards of employment, defines job responsibilities and

duties, and pays its employees independently of central control. As a result, there is great diversity in the educational achievement, skills, knowledge, and abilities of the people who work in the criminal justice system. One law enforcement agency may require officers to have only a high school diploma, whereas another law enforcement agency may require a bachelor's degree. One state may have no requirements of legal training for its municipal judges, whereas another state may require that municipal judges meet strict standards for education and other qualifications.

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



Picket Fence Model

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

Checks and Balances

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

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

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

► The Criminal Justice Process

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