

The study of criminal justice must begin with the social and historical context of both crime and justice. This part examines the nature of criminal justice in society, extending beyond merely describing the components of the U.S. criminal justice system to reviewing their foundations.

Chapter 1 reports on how society defines crime. The chapter provides a brief overview of the structure and processes of the American criminal justice system. Four perspectives of criminal justice—crime control, due process, restorative justice, and social justice models—are discussed. These four perspectives set the stage for critically thinking about the development of criminal law and how the law defines crime and criminal responsibility, topics discussed in Chapter 2. Focusing on crime, its criminals, and its victims, Chapter 3 discusses measuring crime and crime theory. When taken together, the three chapters in this opening section lay a solid foundation for understanding the complexity of the crime problem and police, courts, and corrections systems in the United States.

# Crime and Criminal Justice

Chapter **1** The American Criminal Justice System

Chapter **2** Criminal Law: The Foundation  
of Criminal Justice

Chapter **3** Measuring Crime and Crime Theory



# The American Criminal Justice System

## OBJECTIVES

- 1** Define crime and explain why criminal behavior varies over time and place.
- 2** Describe the effectiveness of crime control legislation on crime prevention.
- 3** Explain the structure of the criminal justice system, including differentiating among law enforcement, courts, and corrections.
- 4** List the steps in the criminal justice process.
- 5** Know the four perspectives on criminal justice and their criminal justice policy implications.

## Introduction

Crime is a serious social problem. More than 20 million Americans are crime victims each year.<sup>1</sup> The criminal justice system is massive. The United States spends more than \$200 billion annually to fight crime. The criminal justice system employs more than two million people.<sup>2</sup> Some crime-fighting strategies have reduced or eliminated criminal activity; others not so much. However, regardless of the policies in place, crime happens, and when it does, it is sometimes violent. One serious criminal incident took place in 2007 when Seung-Hui Cho perpetrated one of the deadliest mass killings in modern U.S. history. He murdered 32 people and attempted to kill 29 others before killing himself at Virginia Polytechnic Institute and State University (Virginia Tech) in Blacksburg, Virginia. Cho, who was a senior English major at the university, was plagued by severe psychiatric problems and had been in several incidents involving worrisome behavior, including stalking female students and submitting essays in a creative writing class that were so violent and disturbing that the professor referred Cho for mental health counseling. He was diagnosed with a mental illness and declared a danger to himself and others, but follow-up was not completed. The American public got a glimpse of Cho's illness in a multimedia package containing video, photographs, and a manifesto that Cho sent to NBC during a 2-hour lull between the shootings. These items revealed feelings similar to what Cho previously expressed in his writing assignments. He hated other students, especially females and those with money, and had feelings of persecution. Acquaintances recall that Cho was an extreme loner who often refused to talk with others. Despite his troubled history, Cho, who had no previous criminal record, could legally purchase the ammunition he used in the shootings.<sup>3</sup> The mass killing at Virginia Tech thus initiated national debates about privacy, mental health treatment, public safety, gun control, university preparedness for disasters, criminal justice response to emergency events, and the relationship between the news media and the public. The massacre also showcased the amazing grace and dignity of the victims of the shooting, the Virginia Tech community, and the American public when exposed to such horrific events.<sup>4</sup>

As terrible as Cho's behavior was, it is not only disturbed killers like Cho who commit violent acts. Sometimes criminal justice authorities themselves are involved, specifically when they act in ways that undermine their authority with the public or commit behaviors that endanger the lives of innocent citizens. One such incident involved Rodney Glen King. A 12-minute videotape captured by George Holliday turned what would have been a forgotten, albeit violent, encounter between the Los Angeles Police Department (LAPD) and King into one of the most widely watched and discussed incidents of its kind. The videotaped beating of King has proven itself to be one of the most horrifying, racially charged incidents of excessive police force ever exposed. Across the nation,

millions of Americans were shocked by the fuzzy video images of four officers from the LAPD (three white and one Latino) beating an African American man—Rodney King—with their batons. Thinking King was dangerous and possibly under the influence of PCP (phencyclidine), a hallucinogen with similar effects to lysergic acid diethylamide (LSD), the officers believed the force used to subdue King was justified. Even so, the officers were **indicted**, or accused of wrongdoing through formal accusations, on charges of “assault by force likely to produce great bodily injury” and “filing false reports.” A jury of 10 whites, one Latino, and one Asian voted to **acquit** the officers, which is a verdict of not guilty in a criminal case. The verdict triggered massive rioting in Los Angeles that left hundreds of build-

ings damaged or destroyed and dozens of people dead.<sup>5</sup> During this turbulent time, King appeared on national television pleading for peace: “People, I just want to say, you know, can we all get along?”<sup>6</sup> Some people cannot.



Seung-Hui Cho killed 32 people at Virginia Tech University in Blacksburg, Virginia.



Rodney King was the victim of one of the most notorious incidents of police brutality in U.S. history.



Violence erupted in the streets of Los Angeles soon after four LAPD officers were acquitted of assault and brutality in the beating of Rodney King.

Throughout history, there have been people who do not “get along” with others. This is where the **criminal justice system**, charged with protecting the public, maintaining order, enforcing laws, identifying offenders, bringing the guilty to justice, and treating and punishing convicted persons, steps in. The criminal justice system investigates potentially criminal conduct, arrests citizens, collects evidence, brings charges against alleged offenders, conducts trials, imposes sentences, and carries out punishments to minimize crime.

## The Crime Problem

There is crime in all societies. No community, past or present, is exempt from crime.<sup>7</sup> Crime is expected just like earthquakes, hurricanes, and tornados. Americans have faced overwhelming exposure to crime, and they learn every day how to live with it. In his study of the histories of societies, the 19th-century French sociologist Émile Durkheim concluded that *crime is normal* and cannot be eliminated.<sup>8</sup> Even in a society of saints there will be sinners (deviants). It always has been the case that the behaviors of some people depart from the group’s **norms**, or behavioral expectations. Depending on the degree of departure, a person’s behavior may cross the line and be called a **crime**, which is an intentional act or omission to act, neither justified nor excused, that is in violation of the criminal law and punishable by the state.

Because certain behavior is “right,” by default other behavior is “wrong.” What differentiates one society from the next is the behavior it defines as “normal, appropriate, and law-abiding” and behavior it labels “deviant, inappropriate, and criminal.” A good example of how societies define, criminalize, and punish behavior differently is a recent incident in Iran where an Iranian woman, blinded in both eyes by her male suitor with acid, was allowed by law to blind him in only one eye (see the following Around the Globe box)<sup>9</sup> It is difficult for people in the United States to imagine a scenario in which the notion of “an eye for an eye” is taken literally and that this type of punishment is supported by the state.



The nineteenth-century French sociologist, Émile Durkheim, believed crime is normal in society and cannot be eliminated.



## AROUND THE GLOBE

### Woman Blinded in Iran Seeks Eye-for-Eye Justice

In 2009 an Iranian court awarded an Iranian woman her “eye-for-eye” justice against a male suitor who blinded her with acid. Ameneh Bahrami told a foreign radio station that she was not doing this out of revenge, but rather so that the suffering she went through is not repeated.

An Iranian court ruled that Majid, the man who blinded Bahrami after she rejected him, should also be blinded with acid based on the Islamic law system of “qisas,” or eye-for-eye retribution. However, under Iranian law, Bahrami is entitled to blind him in only one eye, unless she pays more than \$25,110, because in Iran women are not considered equal to men. Bahrami has been told by the Iranian court that her two eyes are equal to one of his, because in Iran each man is worth two women. The offender, Majid, would be blinded by having several drops of acid put into one eye, where Bahrami had acid splashed all over her face and other parts of her body.

Source: Blinded Iranian wants eye-for-eye justice in acid case. (2009, March 4). Retrieved April 4, 2011, from: <http://www.foxnews.com/story/0,2933,504474,00.html>.

## FOCUS ON CRIMINAL JUSTICE

### Drug Policy in the Netherlands

In the United States the federal government regulates illegal drugs such as marijuana. Some states impose severe penalties for possession of marijuana, which U.S. federal drug laws classify as a Schedule I drug—placing it in the same category as heroin, cocaine, and LSD. Although the legal penalties for possession of these drugs in each state vary, federal law provides for a prison term of up to life in prison for a person who distributes 1000 pounds or more of marijuana as well as a maximum \$200,000 fine. People who are caught with even small amounts of these drugs may face the forfeiture of their cars, homes, or other possessions.

In the Netherlands, the government regulates these drugs differently. Beginning in the mid-1970s, the Netherlands quietly decriminalized the personal use of marijuana and hashish. Dutch drug policies were changed. Believing that the policies underlying the U.S. war on drugs and their criminalizing impact on individuals were harmful to society, the Dutch designed their approach to limit the negative and stigmatizing effects of drug use on individual users. They did so by drawing a clear distinction between “hard” drugs, such as opiates, and “soft” drugs, such as cannabis. They also gave law enforcement agencies priority over controlling the production, importation, and trafficking of hard drugs. Dutch law enforcement also decided to ignore the sale of small amounts of marijuana for personal use. Dutch officials believed that if marijuana was decriminalized, thereby separating the soft and hard drug markets, it would reduce the likelihood that marijuana users would come into contact with heroin users, and young people experimenting with marijuana would be less likely to become involved with more dangerous and addictive drugs. The Dutch drug policies were also aimed at normalizing the drug problem. That is, the Dutch admitted that extensive marijuana use had gained a firm foothold in society, as was the case with alcohol and tobacco, and that it was far more realistic to try to reduce the personal and social harms associated with drug use through education and “user-friendly” treatment programs.

Thus, in the Netherlands, selling marijuana is illegal, but not punishable, so the law is not enforced in establishments, called *coffeeshops*, following these nationwide rules:

- No advertising
- No hard drug sales on the premises
- No sales to minors (people under age 18)
- No sales transactions exceeding 5 grams
- No public disturbances

As long as coffeeshops follow these rules they will have no problems with law enforcement. Coffeeshops that violate a rule may be closed for 3 months or permanently. There are roughly 700 coffeeshops in the Netherlands with about 200 being in Amsterdam. Coffeeshops provide a controlled environment, reinforcing tolerance of soft drug use, while condemning the sale or use of harder drugs. More interesting, however, is today, in 2010, the Dutch are considering tightening laws around coffeeshops. If passed, they would become member-only clubs, not be allowed to sell to foreigners, and be required to be more than 350 meters from schools.



Source: Pignal, S. (2010, October 8). Dutch look at weeding out cannabis cafes. *Financial Times* (FT.com). Retrieved June 10, 2011, from: <http://www.ft.com/intl/cms/s/0/2cc0e802-d2fb-11df-9ae9-00144feabdc0.html#axzz1P6TQMOT0>; van der Gouwe, D., Ehrlich, E., & von Larr, M. W. (2009). *Drug policies of the Netherlands*. Utrecht: Trimbos Institute.

It is possible that Durkheim was wrong and crime is not normal.<sup>10</sup> Rather, the level of crime becomes normalized as people accept and become accustomed to a certain amount of crime. This possibility led sociologist Kai Erickson to theorize that *crime varies over time and place*, reflecting contemporary concerns. The amount of crime in a community mirrors the patterns of nonconforming behavior that is most troubling to the public.<sup>11</sup> During much of the 18th and 19th centuries, alcohol use was widespread in the United States. Children and adults consumed alcohol on a regular basis and street brawls were everyday occurrences. Even though these practices are much less prevalent today, the public continues to perceive them as “problems” in need of control by the criminal justice system. Similarly, in the 19th century there was very little concern about drug use. Drugs like marijuana, heroin, and cocaine were openly consumed. These drugs were not criminalized until the early 20th century when their use came to be viewed as a social problem (see the preceding Focus on Criminal Justice box).<sup>12</sup>

Crime also helps a society to progress. *Crime is functional* because it may lead to needed social change.<sup>13</sup> There is ample evidence that societies have been transformed by persons who were called “criminals,” such as Cesar Chavez, Mohandas Gandhi, Jesus, Martin Luther King, Jr., and Nelson Mandela, to name only a few. These men stood in firm opposition to the practices of their governments and against powerful people. The ability of criminals, even a mass murderer like Cho, to change the world is still evident today. Following the massacre, Virginia Tech developed policies that more closely monitor troubled students, installed interior locks on classroom buildings, and implemented an Internet-based message board to alert the campus to emergencies. Other universities have also been proactive in taking steps to improve campus safety. The University of New Hampshire and other colleges have added roof-mounted loudspeakers that stand ready to shout out instructions during emergencies.<sup>14</sup> In addition, in the wake of the Virginia Tech shooting, the U.S. Department of Education introduced new rules allowing school administrators to share confidential information about troubled students. Today, school medical personnel may disclose information to security personnel without a student’s consent if the student is considered a threat.<sup>15</sup>

## Fighting Crime

Even though crime is normal, functional, and varies across time and place, all societies try to prevent it. The United States is no exception. Since 1968 the U.S. Congress has passed six significant pieces of crime-fighting legislation. These are the:

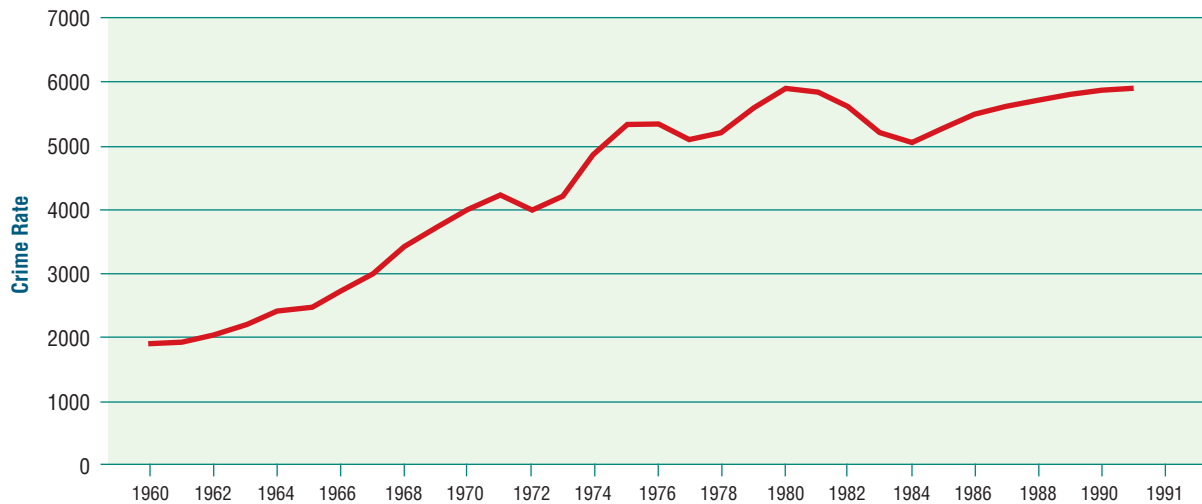
1. *Omnibus Crime Control Bill and Safe Streets Act of 1968*
2. *Comprehensive Crime Control Act of 1984*
3. *Crime Control Act of 1990*
4. *Violent Crime Control and Law Enforcement Act of 1994*
5. *USA PATRIOT Act of 2001*
6. *USA PATRIOT Improvement and Reauthorization Act of 2005*<sup>16</sup>

The purpose of each act was to prevent crime, particularly as it spiraled out of control between 1960 and 1991 (see [FIGURE 1-1](#)) and with the growing concerns about terrorism in the years following the September 11, 2001 attacks on the World Trade Center and Pentagon.

In addition to passing legislative acts, the U.S. Congress has also adopted specific strategies to fight crime, such as:

- Increasing education and training for law enforcement officers
- Seizing the assets of drug traffickers





**FIGURE 1-1** Crime Rate in the United States, 1960–1991 (per 100,000 people)

Source: The Disaster Center, *United States Crime Rates, 1960–2009*, available at [www.disastercenter.com/crime/uscrime.htm](http://www.disastercenter.com/crime/uscrime.htm), accessed March 16, 2011 (Washington, DC: U.S. Department of Justice, 2008).

## FOCUS ON CRIME

### U.S. Reform Programs for Prison Inmates

During the 20th century, prisons came to be viewed as more than simple containment facilities for inmates due to a new emphasis on prisoner reform. Many facilities developed reform programs to meet both the needs of inmates and the institution. Today, there are a variety of programs for inmates providing them with a wide array of opportunities:

- A Lake County, Illinois, program allows inmates to play with, train, and care for dogs held at the county animal care and control shelter, to teach them about compassion and responsibility.
- The oldest prison in Virginia, James River Correctional Institution, joins former race horses with current inmates to provide much needed care for the horses and a fresh outlook on life for the inmates.
- The New Hampshire Department of Corrections offers vocational education programs to inmates where business management skills are taught and an Accounting Technician Certificate can be earned upon successful completion of the program.
- With carpentry, heating, ventilation and air conditioning, and electrical vocational programs, Calipatria State Prison in California offers certification through the National Center for Construction Education and Research.

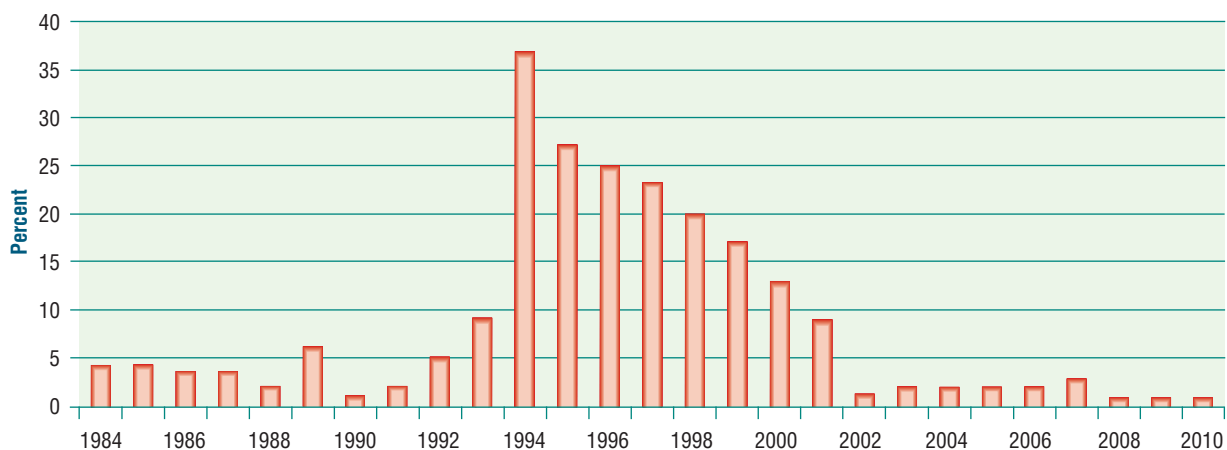
With a vast array of reform programs available to inmates, the benefits are equally varied. Whether promoting good behavior while in prison—a common requirement for participation in programs such as those listed here—or enabling life skills that will benefit the inmate upon release thus reducing the likelihood of recidivism, these programs are making an observable impact on today's criminal justice system.

*Sources:* Fuller, R. (2009, August 26). Lake County program sends inmates to work with animals. *Chicago Tribune*. Retrieved March 12, 2011, from: [http://articles.chicagotribune.com/2009-08-26/news/0908240205\\_1\\_inmates-jail-animals](http://articles.chicagotribune.com/2009-08-26/news/0908240205_1_inmates-jail-animals); Wright, D., & Taylor, A. (2009, June 5). Horses, convicts not out to pasture. *ABC News*. Retrieved June 20, 2011, from: <http://abcnews.go.com/WN/AmazingAnimals/story?id=7769344>; New Hampshire Department of Corrections. Offender programs. Retrieved March 12, 2011, from: [http://www.nh.gov/nhdcc/public\\_programs.html](http://www.nh.gov/nhdcc/public_programs.html); California Department of Corrections and Rehabilitation. Calipatria State Prison. Retrieved March 12, 2011, from: [http://www.cdcr.ca.gov/Facilities\\_Locator/CAL-Inmate\\_Programs.html](http://www.cdcr.ca.gov/Facilities_Locator/CAL-Inmate_Programs.html).

- Requiring mandatory minimum sentences for chronic criminal offenders
- Creating more reform programs for prison inmates (see the preceding Focus on Crime box)
- Establishing a national victim's compensation program
- Providing financial support for community policing
- Permitting federal officials to track and intercept telephone and other electronic communications to gather intelligence to combat domestic and international terrorism<sup>17</sup>

Some of these pieces of legislation have worked well. It is no coincidence, for instance, there have been no successfully completed domestic or international terrorist attacks on American soil since the U.S. Congress passed the 2001 *USA PATRIOT Act* and approved the *USA PATRIOT Improvement and Reauthorization Act* in 2005. Both acts were crafted by the Bush administration and are solidly embraced by the Obama administration.<sup>18</sup> Similarly, both the *Crime Control Act of 1990* and the 1994 *Crime Bill* reduced crime.<sup>19</sup> Some major cities experienced significant decreases in their crime rates by adopting a zero tolerance policy, “getting tough,” and paying more attention to the importance of petty offenses such as loitering and urinating in public. However, the lower crime rate in cities that adopted these strategies may also have been the result of other factors, such as the economy, longer prison sentences, better policing, and legalized abortion.<sup>20</sup>

Some of the other legislation did very little to control crime. The 1968 *Omnibus Crime Control Bill* and the *Comprehensive Crime Control Act of 1984* had a negligible impact on the crime rate.<sup>21</sup> Crime soared during the 1970s and early 1980s. In this turbulent time, however, the public did not view crime as much of a problem. It was not until the early 1990s that the public started to express fear and concern about crime. Once it did, these views changed dramatically. By August 1994, shortly before Congress voted on the *Violent Crime Control and Law Enforcement Act*, 37% of Americans reported crime as the most important problem facing the nation. Today, only about 0.5% of Americans feel this way (see **FIGURE 1–2**).<sup>22</sup>



**FIGURE 1–2** Percent of Americans Who Believe Crime Is the Nation's Most Important Problem, 1984–2010

Sources: Maguire, Kathleen, ed., *Sourcebook of criminal justice statistics*, available at <http://www.albany.edu/sourcebook/pdf/t212008.pdf>, Table 2–1 accessed November 1, 2010; CNN Opinion Research Corporation Poll, October 27–30, 2010, available at <http://www.pollingreport.com/prioriti.htm>, accessed March 2, 2011.

## The Structure of the Criminal Justice System

Controlling crime using a criminal justice system dates back to ancient China and has persisted for centuries. The United States does not have a single, monolithic criminal justice system that is centralized and controlled by the national government. Instead, the U.S. criminal justice system is a loosely coupled system that consists of three major parts—law enforcement, courts, and corrections—that operate across local, state, and federal levels (see **TABLE 1-1**).

- **Local level.** Counties and cities have sheriff's departments and municipal (city) police agencies, city lock-ups and county jails, community corrections programs, and city and county criminal courts, justice of the peace courts, and town courts.
- **State level.** Each state has a criminal code that defines state crimes and provides statutes setting punishments for offenders. Every state also has its own system of law enforcement, courts, and corrections for both adult and juvenile offenders.
- **Federal level.** The **federal criminal code** defines federal crimes. Dozens of federal government law enforcement agencies enforce federal laws, such as the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA). The federal government also has a system of courts, including district courts, courts of appeals, and the Supreme Court of the United States, as well as a system of corrections, including the Federal Bureau of Prisons and federal probation and parole agencies.

Each agency has its own operating system and **jurisdiction**, or territory over which it has authority. Sometimes the jurisdictions and activities of these many separate organizations overlap. The Virginia Tech shootings, for example, were investigated by federal, state, local, and campus law enforcement agencies.<sup>23</sup> Generally, the different parts of the criminal justice system work together very well. Prosecutors cooperate with police to investigate crimes, such as drug trafficking, and often assist officers when evaluating evidence to ensure that it will later be admissible in court. Judges review and sign search and arrest warrants brought to them by police. At trial, law enforcement officers are

**TABLE 1-1** Criminal Justice System Agencies

	Federal	State	Local
<b>Law enforcement</b>	Federal Bureau of Investigation Drug Enforcement Administration Secret Service U.S. Marshals	State police Highway patrol State Bureau of Narcotics State Fish and Game	Municipal police County police Town constables
<b>Courts</b>	U.S. Supreme Court U.S. Courts of Appeal U.S. District Courts Federal Magistrates	State supreme court State court of appeals	Criminal court City or town court Justice of the Peace court Traffic court Juvenile court
<b>Corrections</b>	Federal Bureau of Prisons Federal probation Federal parole	State department of corrections State parole	County jail City lock-up County probation Community corrections

witnesses for the prosecution. When offenders are released from prison on parole, they are supervised by parole officers who work closely with law enforcement to monitor their behavior.

At times, however, when the jurisdictions and activities overlap, there may be “turf wars.” When these occur, the multiple criminal justice agencies do not cooperate with each other. Conflicts arise from differences of opinion regarding how to investigate a crime. Two important functions of law enforcement are to investigate crime and take suspects into custody. It upsets law enforcement officers when other criminal justice officials interfere with them doing their job. Sometimes officers see defense attorneys as working against them, particularly when they obtain acquittals for defendants. Police may feel that judges contribute to the crime problem when they hand out lenient sentences to repeat offenders.

Tensions also exist between the courts and corrections personnel. Sometimes local and federal prosecutors draw battle lines after investigating criminal activity and preparing cases for prosecution because each party wants to control the investigation and receive recognition for any success.

In corrections, tensions arise when state prison administrators believe they, and not the courts, are best suited to establish rules and policies for jails and prisons. They resent federal judges stepping in on behalf of inmates, declaring single institutions or even entire correctional systems to be in violation of inmates’ constitutional rights. Also, to be seen as being tough on crime, local judges may sentence increasing numbers of convicted offenders to prison, which only aggravates prison overcrowding and creates a more dangerous work environment. Within the walls of jails and prisons, the demands and interests of correctional officers may also conflict with treatment staff.

## ■ Law Enforcement

In the United States there are nearly 18,000 local, state, federal, and special law enforcement agencies, such as campus police on a college campus, that employ nearly one million people, about 90% of whom work for local and state agencies (see **TABLE 1-2**).<sup>24</sup> Most Americans recognize their local police and sheriff’s personnel because they see them almost daily patrolling streets, managing crowds, and making traffic stops. A goal of the police is to maintain order by enforcing the law. They gain support from the public when they are active participants in community programs such as youth baseball leagues and “Leaders of Tomorrow,” sponsored by the Memphis Police Department, and, of course, by solving crimes and arresting criminal suspects. In addition to many other services

**TABLE 1-2** Number of Police Agencies and Number of Full-Time Sworn Officers

Type of Agency	Number of Agencies	Number of Full-Time Sworn Officers
<b>TOTAL</b>	<b>17,941</b>	<b>836,787</b>
<b>All State and Local</b>	17,876	731,903
Local police	12,776	446,974
Sheriff	3,067	175,018
Primary state	49	58,190
Special jurisdiction*	1,481	49,393
Constable/marshal	513	2,323
<b>Federal</b>	65	104,884

\*Special jurisdiction law enforcement agencies include campus, airport, harbor, railroad, and mass transit police.

Source: Brian Reaves, *Census of state and local law enforcement agencies, 2004* (Washington, DC: U.S. Department of Justice, 2007).

local and state police provide to citizens (federal police do not), they also handle domestic disturbance calls, settle disputes, calm loud parties, and remove drunks and transients from city streets, as well as regulating traffic when necessary. Over the years the police service function has changed radically. Early in the 20th century the police provided shelter for the homeless and tended to the needs of other poor people. Today, police services have changed considerably, now involving opening locked car doors, searching for lost children, providing citizens with directions, assisting the elderly, and more. While performing traffic duties you will also see police directing vehicles at construction sites and sporting events, and enforcing traffic laws (e.g., speeding, running red lights, and driving under the influence of alcohol or drugs).

There are 65 federal law enforcement agencies that employ more than 104,000 persons. Among these agencies are the U.S. Secret Service, U.S. Capitol Police, U.S. Customs and Border Patrol, and the U.S. Mint Police.<sup>25</sup> Like local and state police, federal law enforcement agents do more than enforce federal laws. The U.S. Park Police, for instance, in addition to enforcing the law at each of the nation's 392 national parks, has developed a Traffic Safety Unit (TSU) that coordinates the force's alcohol and speed enforcement programs and handles all fatal motor vehicle collisions within its jurisdiction. The TSU also instructs Park Police personnel, as well as other local, state, and federal agencies, in various policing operations to include the use of radar, laser, accident investigation, forensic scene mapping, and standardized field sobriety testing.<sup>26</sup>

## ■ Courts

The United States has a dual system of courts, composed of parallel court systems at the federal and state levels. Every state (plus the District of Columbia and all U.S. territories such as Guam, Puerto Rico, and the Virgin Islands) has its own court system. Each state court interprets and applies state laws, whereas the federal court applies federal laws. These systems operate largely independently. Occasionally, however, cases at the state level that involve constitutional issues are appealed to the federal courts. Nearly all decisions decided by the **U.S. Supreme Court**, the highest appellate court in the judicial system, originated from cases originally filed at the state level.

Both federal and state court systems are organized into three tiers: lower courts, intermediate appellate courts, and courts of last resort, also known as supreme courts. The lower courts are further divided into courts of limited jurisdiction and general trial courts, or courts of general jurisdiction. Courts of limited jurisdiction handle the majority of criminal cases, dealing with infractions of city ordinances (e.g., abandoned vehicles, loud music, failure to remove snow from sidewalks, and dog leash laws) and misdemeanors (e.g., shoplifting and disorderly conduct). There are more than 3000 general trial courts in the United States, plus 94 U.S. District Courts that hear felony cases.<sup>27</sup>

The lower courts are the first to hear a case. The process begins with an **initial appearance**, which is the first appearance in court of a person who has been arrested, to be read the charges against him or her, be advised of his or her rights; at this appearance the court will also determine **bail**, which is a sum of money paid to the court to guarantee that he or she will appear at future hearings. If it is decided that the suspect likely committed the crime, bail is set depending on the seriousness of the crime and counsel is assigned to suspects who cannot afford an attorney. Guilty pleas are accepted from misdemeanor **defendants**, persons against whom the charge is brought in court, who decide to forfeit their right to a trial. If the defendant pleads "not guilty," a trial is held to determine the guilt or innocence of the alleged offender or a plea agreement is negotiated with the **prosecutor**, the individual charged with carrying out the legal prosecution. If the offender is found guilty at trial, he or she is then sentenced by the court.

Intermediate appellate courts hear appeals of cases brought to them from the lower courts. They do not retry cases, but rather review transcripts from cases and hear testimony on issues concerning violations of legal procedure, such as the admission of illegally obtained evidence, which may form a basis for overturning or modifying a lower court's decision. In 2002, for instance, Andrea Yates was sentenced to life in prison for murdering three of her five children.<sup>28</sup> The jury rejected the insanity defense, concluding that Yates knew right from wrong at the time she killed her children. In 2005, the case was appealed to the Texas First Court of Appeals, which reversed the conviction because an expert witness for the state, Dr. Park Dietz, had presented false testimony when he said that Yates might have been influenced by a particular episode of the *Law and Order* television program, though no such episode ever aired. Given that one or more jurors might have been influenced by this false testimony, a new trial was ordered. At this second trial, Yates was found not guilty by reason of insanity and sentenced to a state-run, maximum-security mental hospital.<sup>29</sup>

The U.S. Supreme Court has jurisdiction over all cases involving federal or constitutional issues. It reviews federal district court decisions as well as decisions appealed from state courts focusing on issues of federal law. The U.S. Supreme Court does not have jurisdiction over cases involving state law or violations of a state's constitution. In these instances, each state's own Supreme Court is the final arbiter of justice.

## ■ Corrections

Federal, state, and local correctional systems are responsible for the custody, punishment, and rehabilitation of convicted offenders. In 2009, roughly 7.6 million people were on probation (4.3 million), in jail (0.8 million), in prison (1.7 million), or on parole (0.8 million). This is about one in every 31 adults.<sup>30</sup>

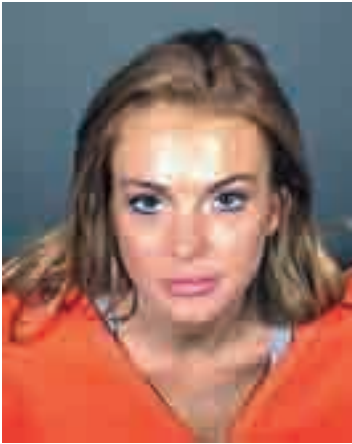
The Federal Bureau of Prisons was established in 1930. Today it has more than 100 institutions. The bureau is responsible for the custody of more than 200,000 federal offenders. There are an additional 1300 state-run correctional facilities that house persons convicted of state-level crimes. Nearly 400,000 people work in state correctional systems, and more than 35,000 individuals work for the federal correctional system.<sup>31</sup>

State and federal corrections systems classify inmates based on various factors, such as the seriousness of the offense committed, treatment needs, and perceived dangerousness. Once an inmate is classified, he or she is assigned to a suitable facility or program. Offenders who are convicted of felonies are typically confined in **prisons**, institutions for those convicted of serious crimes, although they may be sentenced to a term in **jail**, an institution for the confinement of pretrial detainees and people convicted of less serious crimes. Persons convicted of misdemeanors are detained in local jails or minimum-security corrections facilities. Correctional institutions are categorized as super-maximum-, maximum-, medium-, minimum-, or low-security facilities.

The primary functions of correctional institutions are to provide offenders with treatments, punish them for their wrongdoings, and shield society from any harm they might otherwise cause. Sometimes these institutions offer counseling, job training, and education to aid in the rehabilitation of offenders. Community corrections, including probation and parole services, focus on reintegrating offenders into society through supervision and participation in counseling that works to resolve job, family, education, and drug- or alcohol-related problems.



Andrea Yates killed her five children by drowning them in the family bathtub. At her first trial she was convicted of first-degree murder but her conviction was overturned on appeal. At her second trial, Yates was found not guilty by reason of insanity.



As part of her community service for drunken driving and possession of cocaine, a Los Angeles court ordered Lindsay Lohan to spend 2 days working in a morgue to show her graphic evidence of dead bodies.

## The Criminal Justice Process

The structure of the criminal justice system is different from the criminal justice process.<sup>32</sup> The **criminal justice process** involves the procedures used by the criminal justice system, from someone's initial contact with police to his or her possible arrest, charging, booking, prosecution, conviction, sentencing, and incarceration or placement on probation. In the following sections, each stage in the process is discussed.

### Law Enforcement

#### Initial Contact

For most people, their initial contact with the criminal justice system begins with the police. Usually, it entails an officer observing a crime in progress, a victim or a witness reporting a crime, or an ongoing investigation providing law enforcement officials with enough evidence to take action.

#### Criminal Investigation

Once the police determine that a crime has been committed, they will gather evidence and may identify a suspect. Occasionally a suspect is apprehended at the crime scene, but most often he or she is identified later through information obtained from victims and witnesses, physical evidence (e.g., blood or hair samples, fingerprints, and tire marks), or informants.

#### Arrest and Booking

If police believe that a suspect committed a crime, they arrest him or her. Arresting a criminal suspect is a complex process. When a suspect is arrested, the law enforcement officer must not violate the suspect's constitutional rights. If the officer does, either intentionally or by accident, the case may be dismissed and the suspect set free. Once an arrest is made, authorities will book the individual, which involves recording the name of the person arrested, the place and time of the arrest, the reason for the arrest, and the name of the arresting authority. At booking, suspects also are fingerprinted, photographed, and placed in holding cells, where they await further interrogation (see the following Headline Crime box).

## Headline Crime

### The False Confession of John Mark Karr



In 2006 John Mark Karr voluntarily confessed to police that he had killed, drugged, and had sex with 10-year-old JonBenet Ramsey. Karr was arrested and charged with criminal offenses related to the murder. Before Karr's first scheduled appearance in a courtroom, however, Boulder (Colorado) District Attorney Mary Lacy dropped the charges

against Karr. DNA tests failed to tie him to the crime in spite of his own statements of involvement. This case demonstrated that when a prosecutor thinks there is insufficient evidence to proceed with a prosecution, he or she will likely dismiss the charges, which Lacy did.

Source: Kenworthy, T. (2006, August 29). Ramsey suspect's DNA not a match. *USA Today*, pp. 1A, 3A.

## ■ Courts

### Charging

After making an arrest, police turn over the information they have gathered about the crime to the prosecutor. The prosecutor decides what charges (if any) will be filed with the court. The prosecutor may decide either to dismiss the case or to proceed with the case.

### Initial Appearance, Preliminary Hearing, or Arraignment

If the case proceeds, the defendant next makes his or her initial appearance in court, where the charges are read, bail is set, and the defendant is informed of his or her rights. If the defendant is charged with a misdemeanor, he or she may enter a plea. If this plea is “guilty,” the judge may impose a sentence immediately.

If the defendant is charged with a felony, he or she may choose not to enter a plea at the initial appearance. Instead, a judge may schedule a preliminary hearing to determine **probable cause** (i.e., to determine that there is sufficient evidence that a crime was committed and that the accused person likely committed it).

In cases where a defendant has been indicted by a grand jury and probable cause has been established through the grand jury investigation, the defendant’s first appearance in court is at an arraignment, where the trial date is set.

### Bail and Detention

Following the initial appearance, many defendants post bail. As an alternative to posting bail, most jurisdictions allow “good risk” defendants to make a personal promise to appear in court, called release on recognizance (ROR).

Defendants who cannot post bail or who do not qualify for ROR will be transferred to the city or county jail, where they are likely to remain until their arraignment date. Some defendants are not eligible for bail because they are viewed by the court as posing a serious threat to the community (including victims or witnesses who may testify against the defendant) or because they are likely to abscond (run away). These defendants are held in preventive detention.

### Plea Bargaining

Very few cases go to trial. About 95% of all cases resulting in felony convictions never reach a jury. They are settled through plea bargains in which a defendant agrees to plead guilty in exchange for some consideration, such as prosecutors dropping a charge or count or making a recommendation for a reduced sentence.<sup>33</sup>

### Trial

Defendants who choose to go to trial are guaranteed the right to a trial by jury, although they may request a bench trial, in which the judge alone determines guilt or innocence. In either situation, the trial concludes with one of three possible verdicts: not guilty (acquittal), guilty (conviction), or undecided (hung jury). In a bench trial, there are only two possible outcomes: guilty or not guilty. When a trial ends in a hung jury, the prosecutor may refile the charges and prosecute the defendant again.

### Sentencing and Appeals

Following a guilty plea or a guilty verdict, a sentencing hearing is set. The judge decides the appropriate sentence by considering characteristics of the offense and characteristics of the offender that might increase or decrease the severity of the sentence (known as aggravating or mitigating factors) as well as other relevant materials. The judge, in addition, will review the pre-sentence investigation report prepared by the probation officer, which includes information about the crime, the offender’s background, and his or her prior



A Las Vegas Judge sentenced O.J. Simpson to at least 15 years in prison for leading an armed hotel room confrontation over sports memorabilia. Simpson will be eligible for parole in 9 years.



criminal record. The judge also reads or hears any **victim impact statements**, which are oral or written statements by the victim and his or her family and friends that explain the nature and extent of the impact of the crime on them.

If defendants believe they were unfairly convicted or sentenced, they may appeal their verdicts or sentences to an appellate court. This court reviews the lower court's transcripts solely for procedural errors, such as admission of illegally obtained evidence. If an appellate court determines significant errors were made at trial, it may overturn the conviction and order a new trial or vacate the sentence and order a new sentencing hearing.



Quarterback Michael Vick was sentenced to 23 months at a federal minimum-security prison after pleading guilty to dog fighting charges. Vick served his sentence and returned to the NFL.

## ■ Corrections

### Probation

A convicted offender may be placed on probation, a sentencing option typically involving a suspended prison sentence and supervision in the community. The conditions of probation might include paying a fine, participating in psychological counseling, taking part in a drug or alcohol treatment program, obtaining a job, or regularly reporting to a probation officer. If the offender violates any of these conditions, the court may revoke his or her probation and return the probationer to prison.

### Incarceration

If the court decides that probation is not an appropriate sentence, the offender may be incarcerated in jail (for misdemeanor convictions and some felony convictions) or placed in prison (for longer term imprisonment). While incarcerated, some offenders will have the opportunity to participate in rehabilitation programs. Not all prisons provide inmates with the same programs. The greatest disparities in programs offered are found in men's versus women's correctional institutions.

### Release and Parole

Few offenders serve their full prison sentences. Most prisoners become eligible to receive **parole**, a type of conditional release, based on good behavior or evidence of some level of rehabilitation. If released early, the offender is supervised in the community by a parole officer and must follow a set of clearly stated conditions. If any of the conditions are violated, the offender may be returned to prison.

## Perspectives on Justice

Since its inception, the precise meaning of the term *criminal justice* has sparked debate. Criminologists continuously argue about the best way to prevent crime. Criminal justice is not a unified field of study. There are conflicts and irreconcilable differences among academicians and practitioners. Different opinions exist when answering questions concerning criminal justice, for example: Should there be the death penalty? Should illegal immigrants be returned to their home country? What rights should criminal suspects have? Considering the complexity of the crime problem, it is not surprising that no single view dominates the field. Four of the leading views of criminal justice are the crime control, due process, restorative justice, and social justice models. If they are placed on a continuum, the crime control model is the most conservative and sits at the far left end of the continuum. Moving left to right, next comes the due process model, followed by the restorative justice and social justice models; the latter sits at the far right end of the continuum. Each perspective views the role of the criminal justice system and the best way for it to serve and protect the public differently.

## Headline Crime

### Using DNA Samples to Crack Down on Welfare Fraud

The crime control perspective on the administration of justice focuses on repressing crime. It is practiced by all criminal justice agencies including local, state, and federal police. One method for repressing crime is the use of police crackdowns.

In the present economic downturn, municipalities and states across the nation are taking steps to crack down on suspected welfare crime. Some of the steps being taken include mandatory home visits, exhaustive database searches, and DNA tests.

In Anoka County (Minnesota), for example, people suspected of welfare fraud may be court ordered to be swabbed for DNA samples by a law enforcement agency. A judge must

approve search warrants for the DNA tests, since it involves the police taking possible evidence from a suspect. The maximum penalty for welfare fraud in Minnesota is 10 years in prison.

As the economic recession unfolds, authorities report that an increasing number of people are committing welfare fraud. Some people believe they are doing nothing wrong. They feel a sense of entitlement and will do whatever is necessary to continue receiving their monthly checks. Proponents of the crime control model would like to see police powers in this area of law enforcement expanded. Critics from the American Civil Liberties Union disagree. They think the practice of taking DNA swabs goes too

far. They contend the actions of law enforcement officials in Anoka County are on a slippery slope that violates basic civil liberties. The county disagrees. It claims that the police only use DNA samples to identify an absent parent. Thus far, the county has made several arrests, and persons have been prosecuted and convicted of welfare fraud based on DNA evidence. In one case a woman who said she did not know the identity of her children's father had received more than \$200,000 in public assistance. DNA tests identified the man who fathered the minor child still living in the home.

Source: Keen, J. (2010, September 16). Crackdowns target welfare cheats. *USA Today*. Retrieved September 17, 2010, from: [http://www.usatoday.com/news/nation/2010-09-16-welfarefraud16\\_ST\\_N.htm](http://www.usatoday.com/news/nation/2010-09-16-welfarefraud16_ST_N.htm).

### ■ Crime Control Model

The centerpiece of the **crime control model** is repressing crime (see the preceding Headline Crime box). Crime control agencies would focus their resources on deterring crime and ensuring victims' rights, and not on protecting rights of offenders. Proponents of the crime control model want to see U.S. Supreme Court rulings that expand police power making it easier for law enforcement agents to investigate crimes, make arrests, obtain confessions, conduct searches, and seize evidence. Under this view, restrictions placed on the police only make it more difficult for them to do their job. The perfect world for this model is one where the criminal justice system operates like an assembly-line conveyor belt, where cases move along swiftly toward a final disposition. If the police make an arrest and the prosecutor files criminal charges, the accused should be presumed guilty because the fact-finding of the police and prosecutors is implicitly reliable. Once guilt is determined, punishment needs to follow.<sup>34</sup>

### ■ Due Process Model

If the crime control model resembles an assembly line, the due process model looks like an obstacle course or something you might see on the television show, *Wipeout*. The **due process model** seeks fairness under the law. It is the view of this model that the criminal justice system should emphasize defendants' rights, not victims' rights, because the Bill of Rights (the first 10 amendments to the U.S. Constitution) specifically provides for the protection of defendants. Therefore, police powers must be limited to minimize the government's oppression of citizens. As constitutional rights are more than mere technicalities, all criminal justice agents must be held accountable to rules, procedures,

and guidelines to ensure fairness and consistency among defendants (which is where the obstacle course analogy comes in). It requires police to secure arrest warrants from a judge, police must read suspects their rights, defendants are allowed to remain silent, and any evidence obtained illegally against them will be excluded, among other things. It is purposely made difficult for police and prosecutors to make their cases without solid evidence or adherence to strict procedures to ensure fairness to defendants. The state must be very careful in arrests and prosecutions so that an innocent person is not arrested or found guilty of a crime that he or she did not commit.<sup>35</sup>

### ■ Restorative Justice Model

The top priority of the **restorative justice model** is to repair the harm a crime has caused for the victim, the offender, and the community.<sup>36</sup> This model criticizes both the crime control and due process models for seeing crime as an offense against the state when it is an offense against an individual. Three principles sit at the core of this model:

1. Crime causes injuries to victims, offenders, and communities, and the criminal justice system must repair those injuries.
2. Victims, offenders, and communities must be actively involved in the criminal justice process at the earliest point and to the maximum extent possible.
3. While the government is responsible for preserving order, the community is responsible for establishing peace.

Restorative justice is victim centered, community based, and dependent on reciprocal relations. Its primary focus is the victim, followed by restoring health in the case of injury and property in the case of its loss. This model would advocate that crime victims be allowed the opportunity to face their offender and ask questions. Restorative justice is about re-establishing balance and harmony within the community to counteract the ill effects of crime, which generate fear, alienation, and weaken community bonds. The restorative justice model holds offenders responsible to victims and to the community. Accountability means taking action to repair the harm to the victim(s). Offenders must also compensate victims, apologize, and atone for their unlawful actions to the community by participating in community service projects, such as cleaning roadways and removing graffiti. Ideally, the restorative justice model would like to see the criminal justice system condemn the crime while retaining respect for offenders. Punishment is used as a last resort and is used when offenders do not take responsibility for their behavior or are a threat to the community.<sup>37</sup>

### ■ Social Justice Model

Is it “justice” to incarcerate a disproportionate number of young African American males? Should a child be denied a stable family because society incarcerates his parents, both convicted of nonviolent offenses?<sup>38</sup> These are the kinds of questions that take center stage in the **social justice model**, which argues that crime is the result of the burdens and benefits in society not being equally distributed.<sup>39</sup>

Social justice theorists adopt one of two positions. One group argues that society is obligated to provide citizens with the goods that are essential for a modest lifestyle. These include quality education, food, health care, and shelter. Other social justice theorists expand upon this notion and argue that society is duty bound to distribute its wealth among citizens in roughly equal shares. There should be no disparity of wealth since the nation’s wealth comes from the collective efforts of *all* citizens and not only a few.<sup>40</sup>

One controversial idea derived from the social justice model is a criminal defense strategy called the “urban trauma syndrome.” Social justice theorists insist that if it can be shown that the behavior of an offender is the result of growing up in an abusive,

dysfunctional family, then the cause of his or her behavior is society's failure to provide the criminal and the family with the essential goods necessary to live a decent life.<sup>41</sup> This model would also opt for indigent criminal offenders to receive the same quality of legal representation that others pay for, meaning indigents must not be assigned only to the overworked, lower paid, poorly trained, or novice attorneys. Instead, they should have access to representation from the most skilled private attorneys for their defense.

The implementation of the social justice model faces stiff opposition. One serious impediment to its policy recommendations is that the model would require overhauling existing social arrangements. The model thus has almost no support. Few people look favorably upon many of its central ideas, one of which is the reallocation of wealth and reparation for past wrongs.<sup>42</sup>

# WRAPPING IT UP

## Chapter Highlights

- Crime exists in all societies. To regulate crime, societies establish laws prohibiting certain behaviors, define the rules about law enforcement, and establish institutions and systems for responding to crime.
- The U.S. criminal justice system is a loosely organized collection of agencies—law enforcement, courts, and corrections—that operate at the local, state, and federal levels, charged with protecting the public, maintaining order, enforcing laws, identifying offenders, bringing the guilty to justice, and treating and punishing convicted persons.
- The criminal justice process describes the procedures of the criminal justice system, from a citizen's initial contact with police to his or her potential arrest, charging, booking, prosecution, conviction, sentencing, and incarceration or placement on probation, to being paroled.
- There are different perspectives regarding how the criminal justice system should operate. Four perspectives are the crime control, due process, restorative justice, and social justice models. Each perspective views the administration of justice differently. The crime control model focuses on repressing crime. The due process model calls for the criminal justice system to emphasize defendants' rights. The top priority of the restorative justice model is to repair the harm a crime has caused to the victim, the offender, and the community. The social justice model assumes crime is the result of the burdens and benefits in society not being equally distributed. The mission of proponents of this model is to provide citizens with an equal standard of living.

## Words to Know

**acquittal** A verdict of not guilty.

**bail** A sum of money that the arrested person pays to guarantee that he or she will appear at future hearings.

**crime** An intentional act or omission to act, neither justified nor excused, that is in violation of criminal law and punishable by the state.

**crime control model** A perspective of criminal justice that identifies the repression of crime as the most important function of the criminal justice system.

**criminal justice process** The procedures that occur in the criminal justice system, from a citizen's initial contact with police to his or her potential arrest, charging, booking, prosecution, conviction, sentencing, incarceration, and receiving probation, to being paroled.

**criminal justice system** A loosely organized collection of agencies—police, courts, and corrections—that operate at the local, state, and federal levels, that is charged with protecting the public, maintaining order, enforcing laws, identifying offenders, bringing the guilty to justice, and treating and punishing convicted persons.

**defendant** A person against whom a charge is brought in court.

**due process model** A perspective of criminal justice that argues that the purpose of the criminal justice system is to ensure fairness under the law.

**indict** To accuse of wrongdoing through formal accusations.

**initial appearance** A defendant's first appearance in court to be informed of the charge(s), advised of his or her rights, and to have bail determined.

**jail** An institution to hold pretrial detainees and people convicted of less serious crimes.

**jurisdiction** The territory over which a law enforcement agency has authority.

**norms** Behavioral expectations of a group.

**parole** A type of conditional release that is based on good behavior or evidence of some level of rehabilitation.

**prison** An institution for the confinement of people who have been convicted of serious crimes.

**probable cause** A preliminary hearing scheduled by a judge to decide whether there is sufficient evidence to prove that a crime was committed and that the accused person likely committed it.

**prosecutor** An individual charged with carrying out a legal prosecution.

**restorative justice model** A perspective of criminal justice that maintains the goal of repairing harm that criminal offenses inflict upon victims, offenders, and communities.

**social justice model** A perspective of criminal justice that argues that crime is the result of the burdens and benefits in society not being equally distributed among its members.

**U.S. Supreme Court** The highest appellate court in the U.S. judicial system; it reviews cases appealed from federal and state court systems that deal with constitutional issues.

**victim impact statements** Oral or written statements by the family or friends of the victim that explain the crime's impact on the victim and/or his or her family and friends.

## Think and Discuss

1. Is crime normal? Do Americans need to find ways to live with crime?
2. Is crime a serious problem? Is crime one of the most important problems facing the nation?
3. What policies and programs would you recommend to prevent another massacre on a college campus? What do you think should be done to prevent future incidents of police brutality?
4. What criminal justice policies derive from each of the four perspectives of criminal justice?
5. The crime rate has decreased during the past decade. Why has the crime rate dropped? Do you feel safer today than you did a few years ago?

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