Chapter 1
Overview of Corrections and Criminal Justice

Chapter Objectives
- Define criminal justice as part of the social institution of government.
- Describe branches and levels of government as they apply to criminal justice.
- Describe criminal justice as an academic field.
- Summarize the evolution of criminal justice, demonstrating understanding of its growth.
- Identify and describe the components of the criminal justice system, and state why a system analogy can be misleading.
- Identify and describe the phases in the criminal justice process. Discuss how this process can be compared to a funnel.
- Describe the image of crime and justice portrayed by the media, and critically assess this image.
- Distinguish between the due process and crime control models of criminal justice.

Criminal Justice as a Social and Governmental Institution
- All societies have social institutions.
  - established groupings
    - people
    - beliefs
    - practices
  - three main characteristics
    - relatively stable, lasting and built on custom
    - tend to change slowly and gradually over time
    - set up to address a particular set of societal needs
    - rather than being isolated, are linked to one another
- Criminal justice is a component of the government to meet three broad societal needs.
  - control crime
  - society to feel that those who break laws get what they deserve
  - ensure that offenders are treated fairly and justly
    - according to the rights set forth in the U.S. Constitution
- The government has the primary responsibility of operating criminal justice agencies.

Branches of Government
- All three governmental branches are involved in the operation of criminal justice, and criminal justice agencies and activities operate at all three levels.
  - Legislative branch
    - pass laws defining crimes and corresponding punishments
    - process certain procedures
    - approve budgets and appropriate funding
      - police
      - courts
      - correctional agencies
    - hold hearings to investigate allegations of wrongdoing
o Judicial branch
  ▪ process cases to determine guilt or innocence
  ▪ sentence those deemed guilty
  ▪ hear appeals on issues of fairness and constitutionality
  ▪ may also be responsible for certain functions related to corrections
    □ diversion or probation

o Executive branch
  ▪ elected and appointed public officials
  ▪ various units subordinate to their authority
  ▪ law enforcement responsible for
    □ identifying those suspected of crime
    □ apprehending those who appear guilty
    □ gathering evidence to support prosecution
  ▪ corrections agencies responsible for
    □ carrying out sentences imposed by courts

- Juvenile justice also involves all three branches of government.
  o address crime committed by people under legal age of adulthood in a jurisdiction
  o few operate at federal level

**Criminal Justice as an Academic Field of Study**

- Criminal justice involves three interrelated activities.
  o teaching and learning about operations and issues
  o conducting research on topics related to the field
  o performing services for the profession
    ▪ consulting and technical assistance
- It is sometimes thought of as a multidisciplinary field.
  o an applied field of study
    ▪ focus on application of material being studied to activities
      □ legislative
      □ policing
      □ court
      □ corrections
      □ juvenile justice
  o sometimes distinguished from criminology
    ▪ in area of crime control, criminology and criminal justice closely merge
    ▪ criminal justice academic education and training
      □ similarities between the two
        • topics covered
        • approaches taken
      □ differ in relative emphasis
        • emphasis of criminal justice education
          □ broader
          □ more academic
          □ grounded in social science and liberal arts orientations
        • criminal justice training
          □ typically more specialized
Overview of the Evolution of Criminal Justice

- Historically, in both Europe and America, crime was regarded as a sin against God.
  - a wrong against other people
  - traditional means of dealing with crime
    - fragmented, unsystematic combination of responses from private individuals
    - changes gradually took place (latter 1300s through 1600s)
    - governing officials in England pursued
      - increased centralization
      - coordination of criminal justice
- In Colonial America, there was little alternative but to rely heavily on private citizens and vigilante groups.
  - implemented a number of English legal customs
- Enlightenment thinkers with interests in law and justice built upon the core ideas.
  - Italian Cesare Beccaria (1738-1794)
  - Englishman Jeremy Bentham (1748-1832)
  - Locke, Voltaire, and Montesquieu
    - challenged the existing system of justice
      - arbitrary, unfair, barbaric, and ineffective at controlling crime
      - argued for a system of written laws and punishments
      - laws need to be applied in a uniform and equal manner
      - punishments could deter crime if imposed with
        - certainty
        - swiftness
        - sufficient severity
- Following the American Revolution, the new nation was free to pursue its own system of justice.
  - U.S. Constitution developed
  - Bill of Rights added two years later
  - rapid rise of urban police forces and penitentiary system
  - separate justice system being developed for juveniles
- The Civil War had catastrophic effects on the nation.
  - heightened crime and disorder
  - vigilante violence
  - gangs
  - bank and train robberies
  - public corruption
- The Great Depression along with prohibition only worsened matters.
  - outlaws became American folk icons

Professionalism of Criminal Justice

- The Hoover administration worked toward professionalism in criminal justice.
  - Wickersham Commission
    - national criminal justice study group
• examine causes of crime and disorder
• make recommendations
  o over the next three decades
  ▪ trend toward professionalism in criminal justice continued
    □ Federal Bureau of Investigation
    □ International Association of Chiefs of Police
    □ American Bar Association
    □ National Prison Association
  • There was widespread civil unrest in the 1960s.
    o civil rights movement
    o war in Southeast Asia
    o President Lyndon Johnson’s Administration
      ▪ Commission on Law Enforcement and Administration of Justice
      ▪ Law Enforcement Assistance Administration
  • The Professionalism movement in criminal justice has gained momentum since the 1960s.
  • The movement has involved efforts to accumulate a body of knowledge about effective criminal justice policies and practices.
  • The movement has involved efforts to staff police, courts, and correctional agencies with trained and educated people.

Growth in the Criminal Justice System
• Spending increased dramatically between 1982 and 2004 for every function.
• In March 2003, there were 2.3 million law enforcement, court, and correctional employees.
  o vast majority worked in law enforcement
  o most on payroll of local government agencies
• Demands on staff within criminal justice systems are high.
• It can be difficult to understand operations and processes of the criminal justice system in the United States.
  o complexity is compounded by variation in structure and practice found across jurisdictions

The Contemporary Criminal Justice System
• There are three common, interacting and interdependent components within any criminal justice system.
  o police, courts, and corrections
    ▪ unique role that supports society’s need for justice and safety
    ▪ operate by exercising discretion within parameters set by law

The Police
• There are a variety of law enforcement agencies at the federal, state, and local levels.
  o responsible for upholding the law in respective jurisdiction
  o enforce the law
  o prevent crimes from occurring
  o investigate reported crimes
  o provide social services in effort to ensure domestic peace and tranquility
“gatekeepers” of the criminal justice system
use discretion to decide what action should be taken

The Courts
- The U.S. has a dual system of state and federal courts.
  - usually operate independently of one another
  - overlap at times
  - state court systems
    - courts of limited jurisdiction
    - courts of general jurisdiction
  - state and federal appellate courts do not hear original cases
    - review cases
    - render decisions regarding outcomes from lower courts
- The judge plays a prominent role in court.
  - “neutral” party
  - interpret the law
  - determine matters of fact in criminal cases
  - preside over courtroom hearings and trials
  - impose sentences on those determined guilty
- An adversarial system operates in our state and federal courts.
  - prosecutor and defense counsel present opposing cases to court
    - prosecutor’s role
      - prepare and present government’s case
      - proves the guilt of criminal defendants
      - beyond a reasonable doubt
    - defense counsel’s role
      - insure defendant’s constitutional rights are protected
      - assist defendant in building a case
      - try to ensure they aren’t wrongly convicted
- In the U.S. there are separate courts for juvenile offenders.
  - less formal and adversarial
  - overriding purpose
    - to serve the best interests of the child

 Corrections
- There are several key agencies designed to carry out the punishments that the court has imposed on convicted defendants.
  - probation
    - front-end community-based sanction
  - jails
    - operated at local level
    - serve a multitude of purposes
  - prisons
    - most operate at federal or state level
    - responsible for care and custody of felony offenders
  - parole
    - back-end sanction
    - designed to protect the public
ease offenders’ transition back into community

- juvenile services
  - correctional subcomponents are very similar
  - different terminology is used
  - more rehabilitative approach

The Components as a System

- Police, courts, and corrections, comprise a *loose system* of criminal justice.
  - each component interacts with and is influenced by the others
  - police determine number and types of cases to be prosecuted
  - prosecutor’s decisions about prosecution and plea bargaining have direct impact on court’s workload
  - courts’ decisions determine number and type of offenders placed in various correctional agencies
  - crowded prisons have contributed to early release of offenders into community

- Caveats About the System Analogy
  - some overlapping functions
  - must regularly interact
  - influenced by one another
  - no single criminal justice system in the nation
    - multiple systems
    - frequent breakdowns in communication
    - mutual suspicion and competition
    - diverse and even conflicting interests and objectives

- The components still maintain some independence.

Criminal Justice Processes

- There are a series of stages or phases that a criminal case goes through.
  - justice system agents
    - make various discretionary decisions
    - perform various actions within the boundaries of law

Arrest – System Entry

- The first step in the process is the criminal act.
  - triggers the criminal justice process
  - when act is reported to/observed by police
  - investigation ensues
  - probable cause
    - can initiate arrest or warn and release
    - is booked if arrested
    - may be placed in local jail or detention center
    - charges filed with prosecutor

Pretrial Stage

- There are two primary processes.
  - first process
    - prosecutor reviews police report and investigation
    - conducts further investigation if needed
- determines if evidence is sufficient to pursue prosecution
  - second process
    - pretrial investigation and hearing for purpose of setting bail

**Adjudication**
- This is a fact finding stage during which several court hearings are conducted.
  - arraignment
    - formal charges read
    - defendant enters plea
    - trial date set
    - judge hears arguments regarding unresolved issues of bail and pretrial release
  - pretrial hearing
    - judge, prosecutor, and defense discuss case and determine best way to proceed
    - dismissal of charges and plea agreements
  - trial
    - prosecutors present evidence to prove beyond a reasonable doubt
    - defense given opportunity to present evidence supportive of client’s case
    - judge serves as neutral third party
      - interpret and apply the law
      - protect rights of both parties
    - bench trial
      - judge makes determination regarding defendant’s guilt or innocence
    - jury trial
      - jury determines guilt or innocence

**Sentencing**
- A plea of guilty or a finding of guilt sets the stage for sentencing.
  - probation department may conduct presentence investigation
  - judge considers
    - seriousness of the offense
    - offender’s past criminal history
    - social background
  - sanctioning options
    - fines
    - probation
    - some type of intermediate sanction
    - incarceration

**Corrections**
- The corrections agencies’ responsibilities include many subcomponents.
  - carry out punishment imposed by court
  - varying degrees of incapacitation and rehabilitation
  - probation
    - offenders incapacitated to a small degree
  - jail or prison
    - confined for varying lengths of time
o parole
o once terms of sentence completed, cases are terminated

The Criminal Justice Process as a Funnel
- The process is like a large funnel containing many holes where cases can exit the track anywhere before getting to prison at the bottom.
  - relatively few cases in process make it to prison
- Many crimes never result in arrest for varying reasons.
  - suspects are not located
  - police decide not to arrest
  - prosecutor decides to dismiss case or proceed to court
  - half of adjudicated cases result in felony conviction
    - even fewer sentenced to prison

Models and Images of Crime and Justice
The Media, Crime, and Justice
- Much of our understanding about crime, criminals, and the operations of criminal justice systems comes from media images.
  - television
  - internet
  - advantages to this easy access
    - retrieved or viewed quickly
    - inexpensive
    - visual images increases public interest
      □ aids in understanding issue
  - disadvantages
    - much content reported is highly selective
      □ *If it Bleeds, it Leads*
    - most Internet or television reports convey only minimal information
- Since 1993, crime has been the most heavily covered topic on the network evening news.
- Heavy viewers of local news are likely to be more fearful of crime.
- Some cases draw an inordinate amount of media attention.
  - characteristics of victim
  - nature of crime
  - nature of offender
  - distorts the public’s ideas
    - about nature of crimes
    - how the justice system operates
- Only a small percentage of criminal cases end in a trial.
- Few trials last longer than a day or two.
- Most defendants are indigent.
- Fictional television programs also influence the public’s notions of crime and justice.
  - increased number of forensic science television programs
    - don’t often leave samples of usable biological evidence at crime scenes
    - techniques/technology portrayed in television programs often don’t exist
    - investigators rarely have ability to resolve a case in a day or two
- expectations of jurors may be influenced by watching crime programs

- The most numerous and most typical cases the system deals with are misdemeanors and less serious felonies.
  - typically dealt with in routine, assembly-line fashion by criminal justice agents

Packer’s Due Process and Crime Control Models

- In 1968, Herbert Packer published the book *The Limits of the Criminal Sanction*.
  - two competing viewpoints used to analyze criminal justice system philosophies, operations, and outcomes
    - due process model
      - upholding rights of arrestee/defendant is most important consideration
      - search for truth is more important than speed and efficiency
    - crime control model
      - priority is on crime-fighting operations of police and prosecutors
      - assembly-line justice

- Samuel Walker relabeled Packer’s approaches.
  - conservative and liberal crime control models
    - conservatives support crime control approach
    - liberals advocate for due process protections
    - few people identify with extreme ends of continuum
  - Ronald Huff and colleagues
    - approximately 0.5% of Americans convicted each year thought to be innocent

Wrongful convictions pose significant problems to advocates of either position.

- guilty person will remain in community and continue to commit crimes
- erode public’s confidence in the justice system

- There is tension between Packer’s two models.
  - captures fundamental dilemma of American jurisprudence
    - need to protect citizens from criminal victimization
      - hold offenders accountable for their actions
    - need to provide rights, freedoms, and fairness
      - promised by a democratic form of government
    - how to balance justice and safety