

Criminal justice system

[Law](#), [Criminal Justice](#)



What Is It? The criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate laws. There is no single criminal justice system in the United States but rather many similar, individual systems. How the criminal justice system works in each area depends on the jurisdiction that is in charge: city, county, state, federal or tribal government or military installation. Different jurisdictions have different laws, agencies, and ways of managing criminal justice processes. A criminal justice system is a set of legal and social institutions for enforcing the criminal law in accordance with a defined set of procedural rules and limitations. In the United States, there are separate federal, state, and military criminal justice systems, and each state has separate systems for adults and juveniles. Criminal justice systems include several major subsystems, composed of one or more public institutions and their staffs: police and other law enforcement agencies; trial and appellate courts; prosecution and public defender offices; probation and parole agencies; custodial institutions (jails, prisons, reformatories, halfway houses, etc.); and departments of corrections (responsible for some or all probation, parole, and custodial functions). Some jurisdictions also have a sentencing guidelines commission. Other important public and private actors in this system include: defendants; private defense attorneys; bail bondsmen; other private agencies providing assistance, supervision, or treatment of offenders; and victims and groups or officials representing or assisting them (e. g., crime victim compensation boards). In addition, there are numerous administrative agencies whose work includes criminal law enforcement (e. g., driver and vehicle licensing bureaus; agencies dealing with natural

resources and taxation). Legislators and other elected officials, although generally lacking any direct role in individual cases, have a major impact on the formulation of criminal laws and criminal justice policy. Such policy is also strongly influenced by the news media and by businesses and public-employee labor organizations, which have a major stake in criminal justice issues. The notion of a "system" suggests something highly rational-carefully planned, coordinated, and regulated. Although a certain amount of rationality does exist, much of the functioning of criminal justice agencies is unplanned, poorly coordinated, and unregulated. No jurisdiction has ever reexamined and reformed all (or even any substantial part) of its system of criminal justice. Existing systems include some components that are very ancient (e. g., jury trials) alongside others that are of quite recent origin (e. g., specialized drug courts). Moreover, each of the institutions and actors listed above has its own set of goals and priorities that sometimes conflict with those of other institutions and actors, or with the supposed goals and priorities of the system as a whole. Furthermore, each of these actors has substantial unregulated discretion in making particular decisions (e. g., the victim's decision to report a crime; police and prosecutorial discretion whether and how to apply the criminal law; judicial discretion in the setting of bail and the imposition of sentence; and correctional discretion as to parole release, parole or probation revocation, prison discipline, etc.). The main Systems are the State and the Federal. The State criminal justice systems handle crimes committed within their state boundaries. The Federal criminal justice system handles crimes committed on federal property or in more than one state. System Components Most criminal justice systems

have five components—law enforcement, prosecution, defense attorneys, courts, and corrections, each playing a key role in the criminal justice process. Law Enforcement: Law enforcement officers take reports for crimes that happen in their areas. Officers investigate crimes and gather and protect evidence. Law enforcement officers may arrest offenders, give testimony during the court process, and conduct follow-up investigations if needed. Prosecution: Prosecutors are lawyers who represent the state or federal government (not the victim) throughout the court process—from the first appearance of the accused in court until the accused is acquitted or sentenced. Prosecutors review the evidence brought to them by law enforcement to decide whether to file charges or drop the case. Prosecutors present evidence in court, question witnesses, and decide (at any point after charges have been filed) whether to negotiate plea bargains with defendants. They have great discretion, or freedom, to make choices about how to prosecute the case. Victims may contact the prosecutor’s office to find out which prosecutor is in charge of their case, to inform the prosecutor if the defense attorney has contacted the victim, 2 and to seek other information about the case. Defense attorneys: Defense attorneys defend the accused against the government’s case. They are either hired by the defendant or (for defendants who cannot afford an attorney) they are assigned by the court. While the prosecutor represents the state, the defense attorney represents the defendant. Courts: Courts are run by judges, whose role is to make sure the law is followed and oversee what happens in court. They decide whether to release offenders before the trial. Judges accept or reject plea agreements, oversee trials, and sentence convicted

offenders. Corrections: Correction officers supervise convicted offenders when they are in jail, in prison, or in the community on probation or parole. In some communities, corrections officers prepare pre-sentencing reports with extensive background information about the offender to help judges decide sentences. The job of corrections officers is to make sure the facilities that hold offenders are secure and safe. They oversee the day-to-day custody of inmates. They also oversee the release processes for inmates and sometimes notify victims of changes in the offender's status. How the Criminal Justice Process Works Below is a basic outline of the sequence of events in the criminal justice process, beginning when the crime is reported or observed. The process may vary according to the jurisdiction, the seriousness of the crime (felony or misdemeanor), whether the accused is a juvenile or an adult, and other factors. Not every case will include all these steps, and not all cases directly follow this sequence. Many crimes are never prosecuted because they are not reported, because no suspects can be identified, or because the available evidence is not adequate for the prosecutor to build a case. Entry into the System Report: Law enforcement officers receive the crime report from victims, witnesses, or other parties (or witness the crime themselves and make a report). Investigation: Law enforcement investigates the crime. Officers try to identify a suspect and find enough evidence to arrest the suspect they think may be responsible. Arrest or Citation: If they find a suspect and enough evidence, officers may arrest the suspect or issue a citation for the suspect to appear in court at a specific time. This decision depends on the nature of the crime and other factors. If officers do not find a suspect and enough evidence, the case

remains open. Prosecution and Pretrial Charges: The prosecutor considers the evidence assembled by the police and decides whether to file written charges (or a complaint) or release the accused without prosecution. First Court Appearance: If the prosecutor decides to file formal charges, the accused will appear in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant. Bail or Bond: At the first court appearance (or at any other point in the process—depending on the jurisdiction) the judge may decide to hold the accused in jail or release him or her on bail, bond, or on his or her “ own recognizance (OR). ” (OR means the defendant promises to return to court for any required proceedings and the judge does not impose bail because the defendant appears not to be a flight risk). To be released on bail, defendants have to hand over cash or other valuables (such as property deeds) to the court as security to guarantee that the defendant will appear at the trial. Defendants may pay bail with cash or bond (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant. Right To Counsel At their first appearance defendants are advised of their right to counsel. This means that they are entitled to have an attorney represent them and answer the charges. If they indicate that they are unable to afford an attorney, Criminal Division staff are assigned to conduct indigence investigations. These

investigations consider defendants' assets and liabilities, and recommend that cases be assigned to a public defender if a defendant is unable to afford a private attorney. Private attorneys are usually either self-employed or work for private law firms who charge an hourly rate for services.

Grand Jury or Preliminary Hearing: In about one-half of the states, defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an indictment, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.

Arraignment: The defendant is brought before the judge to be informed of the charges and his or her rights. The defendant pleads guilty, not guilty, or no contest (accepts the penalty without admitting guilt). If the defendant pleads guilty or no contest, no trial is held, and offender is sentenced then or later. If the defendant pleads not guilty, a date is set for the trial. If a plea agreement is negotiated, no trial is held.

Adjudication (Trial Process) Plea Agreements: The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more charges, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims

about plea agreements or seek their approval. Plea Bargain In many cases, the prosecutor and a defendant's lawyer will negotiate a plea bargain. In a plea agreement, the prosecutor may offer the accused an arrangement where s/he will recommend a reduced term of incarceration or probation in exchange for a guilty plea. In some instances, the charges are reduced or dismissed as part of the plea bargain. Maximum sentence terms may also be part of negotiated agreements. Criminal Division individual judge teams, managed by team leaders, coordinate court dates with the prosecutor and the defense attorney regarding the plea agreement and establishes a court date for the plea to be entered. Defendants entering a plea must sign a statement certifying that they understand the plea and are entering into the agreement voluntarily and without pressure from the prosecution or their own attorney. They also acknowledge that the Criminal Division judges are not bound by the agreement when deciding and rendering sentences. If a judge perceives that the plea bargain is too lenient, the judge can reject the plea and order the prosecution and defense parties to renegotiate, or order the matter set down for trial. 30% of all complaints are settled through pretrial programs and negotiations. After a criminal case is indicted, over 70% are resolved without proceeding to a full trial. Trial: Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing. Post-Trial Sentencing: Victims are

allowed to prepare for the judge (and perhaps to read at the sentencing hearing) a victim impact statement that explains how the crime affected them. In deciding on a sentence, the judge has a range of choices, depending on the crime. These choices include restitution (paying the victim for costs related to the crime), fines (paid to the court), probation, jail or prison, or the death penalty. In some cases, the defendant appeals the case, seeking either a new trial or to overturn or change the sentence.

Probation or Parole: A judge may suspend a jail or prison sentence and instead place the offender on probation, usually under supervision in the community. Offenders who have served part of their sentences in jail or prison may—under certain conditions—be released on parole, under the supervision of the corrections system or the court. Offenders who violate the conditions of their probation or parole can be sent to jail or prison.

Post-Conviction Motions

Defendants who are convicted of crimes may appeal their cases to the Appellate Division of Superior Court, which reviews trial records and decides if decisions made by judges in the Superior Court are fair and equitable. Defendants may file motions, or requests to their sentencing judge to have sentences modified, or for other relief.

Teams in Criminal Division Case Processing

Criminal Division offices are organized into "teams". There are individual judge teams, where each criminal judge is assigned a team leader with a team of clerical staff, a court clerk, a group of case supervisors and investigators who perform all the work on the cases to be heard by the team's trial judge. Each team conducts calendar management, or scheduling of all court events for that particular judge. The team also performs pretrial intervention and presentence investigations for one judge, as well as

courtroom support, computer data entry manages active court files and records and coordinates court dates with prosecutors and public defenders, who are also assigned to their judge. Team members work in unison, and one member can generally perform the work of any member within that team. Their familiarity with each other's work and their judge improves efficiency and reduces wasted time. The team process helps to ease the anonymous and crowded nature of a high volume judicial system, as members become accustomed to working in harmony and are accountable for all cases.

The Issue With the Criminal Justice System

The gruesome problems in the criminal justice system that have been overlooked for so many years are starting to burst into public view, and the system is breaking down in some parts of the country. In Los Angeles an enormous scandal is unfolding. Dozens of people are known to have been framed by the police and some innocent people reportedly were shot. A criminal probe of the department has uncovered a wide range of offenses committed by police officers, including drug dealing, tampering with evidence, witness intimidation, perjury and assault. The police misconduct has resulted in the reversal of more than 30 criminal convictions. It is believed that hundreds of other cases have been tainted. The estimated potential loss from lawsuits against the department and the city has soared beyond \$100 million. In Illinois, Gov. George Ryan has ordered a temporary halt to executions because so many innocent people were landing on death row. Mr. Ryan is a moderate Republican and a supporter of the death penalty. But the criminal justice system in his state has proved to be both tragic and farcical. Real killers roamed free while the wrongfully convicted were handed tickets to

eternity. In some cases ignorance and incompetence were the culprits. In other, more chilling instances, the innocent were deliberately betrayed. Illinois has exonerated 13 men who had been condemned to death. Across the country, scores of people have had their convictions overturned after sentenced to die. Governor Ryan said, " I cannot support a system, which, in its administration, has proven so fraught with error, and has come so close to the ultimate nightmare, the state's taking of an innocent life." The Chicago Tribune, in an investigative series on the death penalty in Illinois, concluded: " Capital punishment in Illinois is so riddled with faulty evidence, unscrupulous trial tactics and legal incompetence that justice has been forsaken." From coast to coast the criminal justice system is riddled with the horrors of incompetence and worse. Wrongful executions, trust me, have already occurred. I wrote a series of columns about David Wayne Spence, who was executed in Texas in 1997. Mr. Spence was almost certainly innocent. The detective who investigated the triple murder for which he was executed told me, " Nothing from the investigation ever led us to any evidence that he was involved." Mr. Spence's execution apparently escaped the notice of Gov. George W. Bush, who was quick to assert on " Meet the Press" yesterday that he was " confident that every person that has been put to death in Texas under my watch has been guilty of the crime charged." Senator Patrick Leahy, a Vermont Democrat who is sponsoring legislation that would offer some additional protection against wrongful convictions in death penalty cases, spoke last week about the case of Anthony Porter, who spent 16 years on death row in Illinois. " Was he cleared by the state?" asked Senator Leahy. " No. He was cleared by a class of undergraduate journalism

students at Northwestern University, who took on his case as a class project. That got him out." If the criminal justice system has such a poor track record when it comes to capital cases, imagine what the situation is like in the cases with much less at stake. How many thousands of people have been wrongfully convicted? In how many instances have the real criminals been ignored by the authorities, and thus allowed to remain free and prey on others? How many innocent people have been maimed or killed in the name of the law? Consider the District of Columbia's Metropolitan Police Department, which killed more people per capita in the 1990's than any other big-city force. The Washington Post, after an eight-month investigation, said " internal police files and court records reveal a pattern of reckless and indiscriminate gunplay by officers sent into the streets with inadequate training and little oversight." There is an epidemic of police and prosecutorial misconduct and incompetence in this country. The scandals in Los Angeles and Illinois are festering sores, symptoms of a complex disease that both threatens and -- to the extent that we ignore it -- shames us all.

Investigation - The initial stage of criminal justice is investigation of an alleged crime. Various local, state and federal law enforcement agencies take part in investigating such allegations. In some instances, agencies from different levels of government work together on the same criminal investigation. A referral is made from a law enforcement agency to a prosecuting authority (a district attorney, state attorney or U. S. attorney, for example) upon a determination that a crime occurred and there is evidence that a certain person committed it.

Criminal Charge - Once an allegation of criminal conduct is turned over to a prosecuting attorney, he reviews the evidence

and the statements of law enforcement officials. He determines whether probable cause exists to support a formal criminal charge against the suspect.

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Prosecution - Once a crime is charged, the prosecution of a case begins. It can take several possible courses. A trial represents the ultimate phase of the prosecution stage in the criminal justice system. Through a trial, a defendant is found guilty or not guilty of the charge. In the alternative, during this stage of criminal justice, cases resolve through plea negotiations between the defendant and her counsel and the prosecuting attorney.

Sentencing - If the defendant is convicted--found guilty--the sentencing stage begins, and includes an evaluation of the convict by a court official. The evaluation focuses on the convict's criminal history and background, the nature of any previous crimes, and the severity of the current offense. Ultimately, the judge imposes a sentence that generally ranges from unsupervised probation to an extended term of incarceration. A sentence also potentially includes fines, an order of restitution, community service, treatment programs and other actions deemed necessary and appropriate by the court.

Service of Sentence - The final stage of criminal justice involves serving the sentence imposed by the court. If incarceration is ordered, that term typically is followed by parole (in a state case) or supervised release (in a federal case). Both parole and supervised release place various restrictions on a released convict's freedoms, rights and privileges.