

# Criminal Justice *in* America

EIGHTH EDITION



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# 1

## The Criminal Justice System

# TRAYVON MARTIN CASE

- In July 2013, George Zimmerman was found not guilty on the charge of second-degree murder and the lesser alternative charge of manslaughter in the death of Trayvon Martin. The verdict divided the nation along racial and gender lines, with criticisms that the police didn't care about the death of a young African American boy. There were counterclaims that pressure from civil rights activists led to murder charges against a young man merely defending himself.
- Was justice achieved in the Zimmerman case?

# LEARNING OBJECTIVES

- LO1 - Name the goals of the criminal justice system
- LO2 - Identify the different responsibilities of federal and state criminal justice operations.
- LO3 - Analyze criminal justice from a systems perspective.
- LO4 - Identify the authority and relationships of the main criminal justice agencies, and list the steps in the decision-making process for criminal cases.
- LO5 - Explain the criminal justice “wedding cake” concept as well as the due process and crime control models.
- LO6 - Name the possible causes of racial disparities in criminal justice.

# LEGISLATURES AND CRIME

- Crimes are actions that violate laws defining socially harmful behaviors that will be subject to government power to impose punishment.
  - Mala in se - offenses that society has determined are wrong by their very nature, and are so harmful, they must be punished.
    - Ex: rape, murder
  - Mala prohibita - crimes that are prohibited by the government, not because they are necessarily wrong in themselves
    - Ex: gambling, prostitution, drug use

# GOALS OF CRIMINAL JUSTICE

- **Doing justice**
  - Ensure fairness and equity in the treatment of people
- **Controlling crime**
  - Control crime by arresting, prosecuting, convicting, and punishing those who disobey the law
- **Preventing crime**
  - Deterrent effect of the actions of police, courts, and corrections

# ADVANCING GOALS OF CRIMINAL JUSTICE

- Evidence-Based Practices – policies developed through research that demonstrates most useful and cost-effective approaches



# CRIMINAL JUSTICE IN A FEDERAL SYSTEM

- **Federalism**

- Power divided between a central (national) government and regional (state) government
- No single level of government is solely responsible for administration of criminal justice
  
- Vast majority of crimes are defined by state laws rather than federal law

# EXPANSION OF FEDERAL INVOLVEMENT

- Since 1960s, federal government has expanded its role in crime policy that has traditionally been responsibility of state and local government
- Many crimes span state borders, making the federal government better at criminal investigations that cross state lines





# EXPANSION OF FEDERAL INVOLVEMENT

- Most significant expansion was creation of Department of Homeland Security (DHS) through consolidation of:
  - Border security
  - Intelligence
  - Emergency-response agencies
- Transportation Security Administration (TSA) created within DHS to assume responsibility for protecting travelers and interstate commerce

# EXPANSION OF FEDERAL INVOLVEMENT

Congress approved legislation to create a new federal agency dedicated to protecting the United States from terrorism. The legislation merges 22 agencies and nearly 170,000 government workers.

	Agencies Moved to the Department of Homeland Security	Previous Department or Agency
<b>Border and Transportation Security</b>	Immigration and Naturalization Service enforcement functions Transportation Security Administration Customs Service Federal Protective Services Animal and Plant Health Inspection Service (parts)	Justice Department Transportation Department Treasury Department General Services Administration Agriculture Department
<b>Emergency Preparedness and Response</b>	Federal Emergency Management Agency Chemical, biological, radiological and nuclear response units Nuclear Incident Response Teams National Domestic Preparedness Office Office of Domestic Preparedness Domestic Emergency Support Teams	(Independent Agency) Health and Human Services Department Energy Department FBI Justice Department (From various departments and agencies)
<b>Science and Technology</b>	Civilian biodefense research program Plum Island Animal Disease Center Lawrence Livermore National Laboratory (parts)	Health and Human Services Department Agriculture Department Energy Department
<b>Information Analysis and Infrastructure Protection</b>	National Communications System National Infrastructure Protection Center Critical Infrastructure Assurance Office National Infrastructure Simulation and Analysis Center Federal Computer Incident Response Center	Defense Department FBI Commerce Department Energy Department General Services Administration
<b>Secret Service</b>	Secret Service including presidential protection units	Treasury Department
<b>Coast Guard</b>	Coast Guard	Transportation Department

Source: *New York Times*, November 20, 2002, p. A12.

# QUESTION FOR DISCUSSION

- Under California's Compassionate Use Act (CUA), limited marijuana use is permitted for medicinal purposes. Physicians may prescribe medical marijuana for serious medical conditions. The Act does not allow citizens to grow their own, and the DEA seized and destroyed plants grown by Raisch. He appealed the seizures as being unconstitutional. The Supreme Court in *Gonzales v. Raisch* (2005) endorsed Congress' Commerce Clause authority to criminalize local cultivation.
- If public opinion polls indicate that an overwhelming majority of citizens feel this should not be a federal government issue, but should be a state issue, what are the arguments for and against continued federal involvement?

# CRIMINAL JUSTICE AS A SOCIAL SYSTEM

- **System**

- Interdependent parts whose actions are directed towards goals and influenced by their environment
- Subsystems of police, courts, and corrections has its own goals and needs but are interdependent on each other

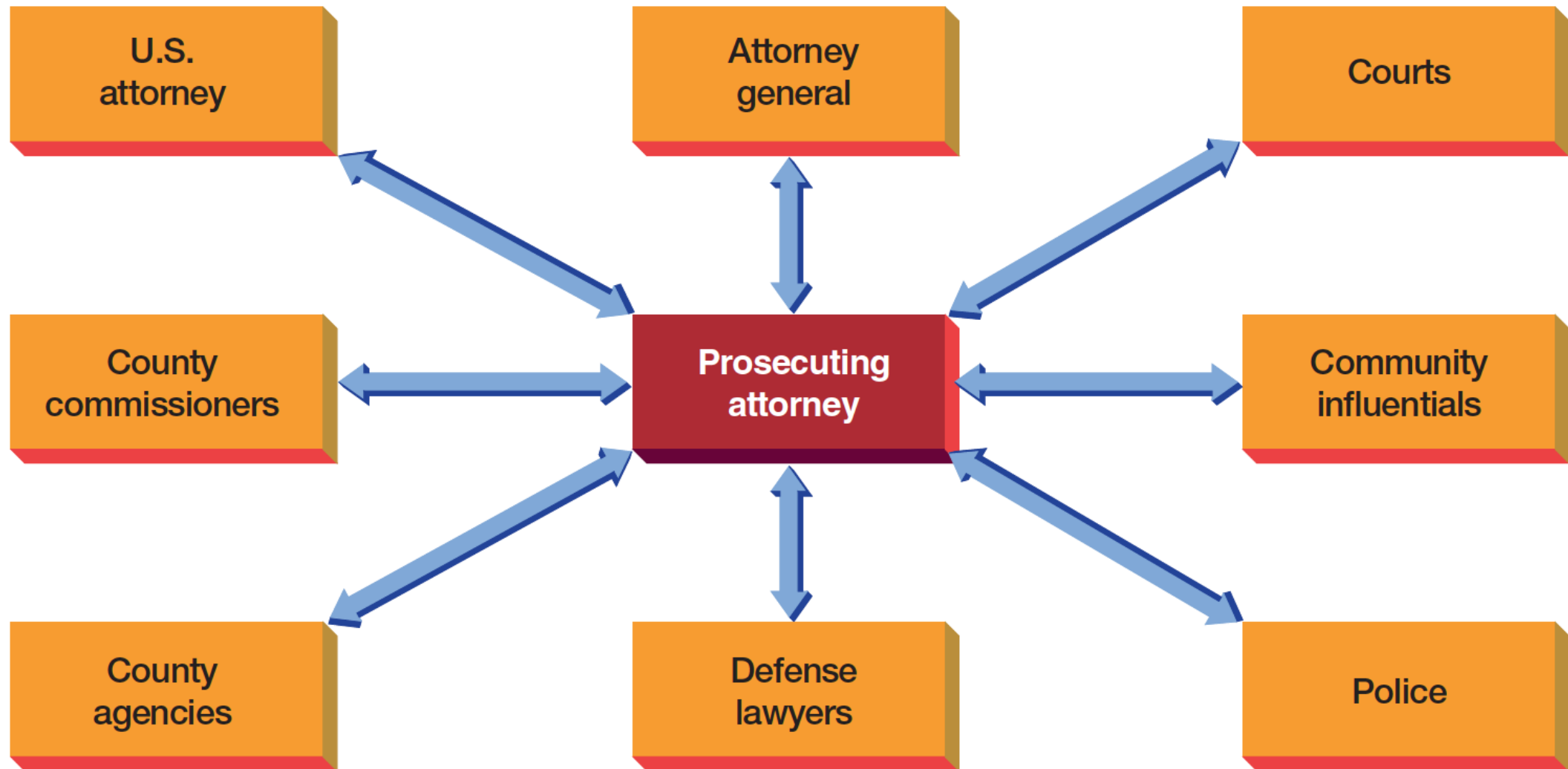


# CRIMINAL JUSTICE AS A SOCIAL SYSTEM

- **Exchange**

- Mutual transfer of resources among individual actors who have goals that cannot be accomplished alone
- Each needs to gain cooperation and assistance of others
- Plea bargain - defendant's plea of guilty in exchange for receiving consideration in charges or sentence

# CRIMINAL JUSTICE AS A SOCIAL SYSTEM



# CHARACTERISTICS OF CRIMINAL JUSTICE SYSTEM

- **Discretion**
  - Authority to make decisions using one's own judgment
- **Resource Dependence**
  - Dependence on other agencies for funding (politicians, legislators, voters, media)
- **Sequential Tasks**
  - Decisions occur in a specific, sequential order
- **Filtering**
  - Screening process that gradually exits people out of the system

# CHARACTERISTICS OF CRIMINAL JUSTICE SYSTEM

**TABLE 1.2 Who Exercises Discretion?**

Discretion is exercised by various actors throughout the criminal justice system.

These Criminal Justice Officials . . .	Must Often Decide Whether or How to . . .
<b>Police</b>	Enforce specific laws Investigate specific crimes Search people, vicinities, buildings Arrest or detain people
<b>Prosecutors</b>	File charges or petitions for adjudication Seek indictments Drop cases Reduce charges
<b>Judges or Magistrates</b>	Set bail or conditions for release Accept pleas Determine delinquency Dismiss charges Impose sentences Revoke probation
<b>Correctional Officials</b>	Assign to [which] type of correctional facility Award privileges Punish for infractions of rules Determine date and conditions of parole Revoke parole

Source: Bureau of Justice Statistics, *Report to the Nation on Crime and Justice*, 2nd ed. (Washington, DC: U.S. Government Printing Office, 1988), 59.



# OPERATIONS OF CRIMINAL JUSTICE AGENCIES

- Three major components
  1. Police
  2. Courts
  3. Corrections

# POLICE

- **Four Major Duties**

1. Keeping the peace
2. Apprehending violators and combating crime
3. Preventing crime
4. Providing social services



# COURTS

- Dual court system which consists of a separate judicial system for each state as well as one for the national (federal) system and responsible for:
  - adjudication-determining whether or not a defendant is guilty,
  - ensuring fair procedures,
  - and imposition of appropriate sentences

# CORRECTIONS

- Nearly 7 million adults (1 of every 35) are under supervision of state and federal corrections systems
- Corrections is equated with prisons, but only 30% of convicted offenders are in prisons and jails
- 70% are supervised in community through probation and parole



# FLOW OF DECISION MAKING IN THE CRIMINAL JUSTICE SYSTEM

- **Police**

- Investigation
- Arrest
- Booking

- **Prosecution**

- Charging
- Initial appearance
- Preliminary hearing/Grand jury
- Indictment/Information

- **Courts**

- Arraignment
- Trial
- Sentencing
- Appeal

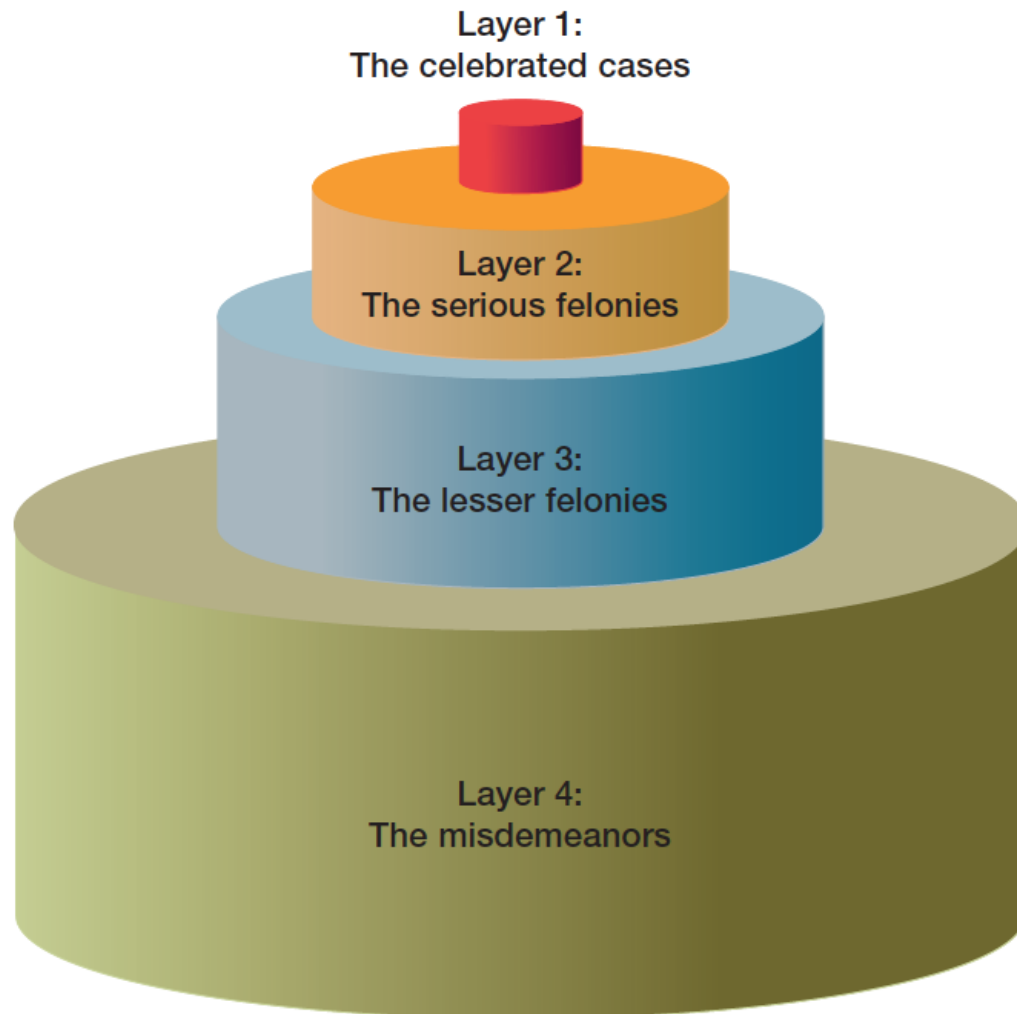
- **Corrections**

- Jail/prison
- Release

# CRIMINAL JUSTICE WEDDING CAKE

- **Layer 1**
  - Celebrated, highly unusual cases that receive much public attention
- **Layer 2**
  - Felonies that are considered serious by officials
- **Layer 3**
  - Felonies that are considered less important than those in Layer 2
- **Layer 4**
  - Misdemeanors. About 90% of all cases fall into this category

# CRIMINAL JUSTICE WEDDING CAKE



**FIGURE 1.5**

**The Criminal Justice Wedding Cake** This figure shows that different cases are treated in different ways. Only a very few cases are played out as “high drama”; most are handled through plea bargaining and dismissals.

*Source:* Drawn from Samuel Walker, *Sense and Nonsense about Crime and Drugs*, 4th ed. (Belmont, CA: Wadsworth, 1998), 30–37.

# CRIME CONTROL VERSUS DUE PROCESS

- Herbert Packer's (1968) developed two competing models of the administration of criminal justice, which provide opposing ways of looking at goals and procedures of criminal justice system
  - Crime control model
  - Due process model



# CRIME CONTROL VERSUS DUE PROCESS

**TABLE 1.3** Due Process and Crime Control Models Compared

What other comparisons can be made between the two models?

	Goal	Value	Process	Major Decision Point	Basis of Decision Making
<b>Due Process Model</b>	Preserve individual liberties	Reliability	Adversarial	Courtroom	Law
<b>Crime Control Model</b>	Repress crime	Efficiency	Administrative	Police/pretrial processes	Discretion

# CRIME CONTROL MODEL

- Assumes every effort must be made to repress crime
- Emphasizes efficiency, speed and finality
- The most important goal of the criminal justice system is controlling crime
- Much like an assembly line, police and prosecutors decide early on who is likely to be convicted, and if a person is unlikely to be convicted, person exits from system
- Nearly all cases end in plea bargaining

# DUE PROCESS MODEL

- Considered to be an obstacle course
- Assumes freedom is most important
- Stresses adversarial process, rights of defendants, and formal decision-making procedures
- Forcing state to prove its case protects citizens from wrongful convictions

# CRIME AND JUSTICE IN A MULTICULTURAL SOCIETY

- Critics of criminal justice system argue equal treatment is hampered by discretionary decisions and other factors that produce racial discrimination and disparity
  - Disparity - difference between groups that may either be explained by legitimate factors or indicate discrimination
  - Discrimination - occurs when groups are differentially treated without regard to their behavior or qualifications

# CRIME AND JUSTICE IN A MULTICULTURAL SOCIETY

- **Disparity and Discrimination**

- African American and Hispanic males are incarcerated at much higher rates than white males
- Federal sentencing for African American men results in sentences more than 20% longer than white males
- African American and Hispanic males more likely to be stopped than whites

# CRIME AND JUSTICE IN A MULTICULTURAL SOCIETY

- **Explaining Disparities**
  - People of color commit more crimes
  - Criminal justice system is racially biased, resulting in much harsher treatment of minorities
  - Criminal justice system expresses the racial bias found in society as a whole



Robert Nickelsberg/Getty Images

# QUESTION FOR DISCUSSION

- In December 2011, Floyd Mayweather Jr. was sentenced to 90 days in jail after pleading guilty to domestic violence charges. Mayweather had several prior convictions for assault. By contrast, two weeks later, in Huntsville, Alabama, Toriano Porter was sentenced to 20 years after being convicted of domestic violence charges. Porter had two prior felony convictions, but he was sentenced as a habitual offender.
- Were prosecutors influenced in their decision by Mayweather's wealth and fame? Did Mayweather benefit from hiring expensive, prominent attorneys to defend him?