

9TH EDITION



# CRIMINAL JUSTICE IN AMERICA

GEORGE F. COLE

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EDITION

9

# CRIMINAL JUSTICE IN AMERICA

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# Preface

*Criminal Justice in America*, Ninth Edition, is designed for instructors seeking a textbook that provides students a thorough introduction to the dynamics of the American system of criminal justice without overwhelming them. The text is an offspring of *The American System of Criminal Justice*, which has been used by more than half a million students over the course of its 15 editions. But much has changed in the 30 years since the first edition of *The American System of Criminal Justice* was published. And that is exactly why we created *Criminal Justice in America*—a briefer, more applied, student-centered introduction to the American system of criminal justice. In creating this text, we did not merely drop a few chapters, combine others, and limit the graphic elements to reduce page count, however. We started from scratch. So, while *Criminal Justice in America* relies on the research and conceptual framework of the larger text, it is not overly theoretical; throughout the book, examples from today's headlines are used to link the concepts and information to real-life criminal justice situations. And while the focus of *Criminal Justice in America* is just as interdisciplinary as the comprehensive book's focus is, it is less encyclopedic and benefits from added policy controversies and legal coverage; skill-building writing exercises; and up-to-the-minute coverage of technology, terrorism, homeland security, cybercrime, evidence-based practices, and other current topics.

## The Approach of This Text

Three key assumptions about the nature of American criminal justice as a discipline and the way the introductory course should be taught run throughout the book.

1. *Criminal justice involves public policies* that are developed within the political framework of the democratic process.
2. *The concept of social system is an essential tool* for explaining and analyzing the way criminal justice is administered and practiced.
3. *American values provide the foundation on which criminal justice is based.*

With concerns about terrorism and civil liberties at the forefront of the national agenda, basic American values—individual liberty, equality, fairness, and the rule of law—need to be emphasized.

This book's approach has met with a high degree of acceptance and might be called the dominant paradigm in criminal justice education. Criminal justice is interdisciplinary, with criminology, sociology, law, history, psychology, and political science contributing to the field. The three themes of public policy, social system, and American values help place the research contributions of these disciplines in a context that allows students to better understand the dynamics of criminal justice.

## Organization

The Ninth Edition is organized to introduce important fundamental concepts, use those concepts in presenting the important institutional segments of the justice system (police, courts, corrections), and then highlight important contemporary

issues concerning reentry from prison, the use of technology, and juvenile justice. The organization of the book is designed to provide comprehensive coverage of the criminal justice system that follows an appropriate sequence, stimulates student interest, and illuminates contemporary issues and problems. The 15-chapter structure of the book creates an opportunity for instructors to move at a steady pace of approximately one chapter per week in the typical length of an academic semester.

Part One of the Ninth Edition presents three chapters that introduce core concepts of the criminal justice system, describe the nature and extent of crime, and supply a framework for understanding the role of law in defining crime and protecting individuals' rights.

Three chapters on police compose Part Two. Here the Ninth Edition builds upon the core concepts in Part One to describe and examine the history, functions, and organization of policing. One chapter examines contemporary issues affecting police, including choices about patrol strategies and delivery of services, the challenges of homeland security, and the increasing importance of private security. The legal issues surrounding police authority to conduct searches and question suspects are covered in a separate chapter. Part Two also examines issues concerning civic accountability and the abuse of police authority.

The focus of the chapters in Part Three is on the courts, plea bargaining, and adjudication. One chapter discusses the important roles of judges, prosecutors, and defense attorneys. Other chapters examine the bail process, plea bargaining, and trials. The final chapter in Part Three describes the sentencing process, including the forms and purposes of punishment.

Part Four concerns corrections, and includes material on corrections history and prisoners' rights. One chapter covers detailed aspects of incarceration and prison society. A separate chapter presents probation and intermediate sanctions.

Part Five covers special issues in criminal justice, and the chapter on reentry and parole completes the community corrections coverage introduced in the final chapter of Part Four. A separate chapter reveals the rapid changes in use of technology by all institutions within the criminal justice system. The final chapter examines juvenile justice and contemporary debates about appropriate punishment and treatment for youthful offenders.

## **New to the Ninth Edition**

This edition encompasses important revisions in content and presentation. Users of the Ninth Edition will find many significant changes. In particular, we have expanded our coverage of contemporary controversies, especially those concerning police use of force, aggressive anticrime strategies, and renewed public attention to concerns about racial disparities and discrimination. There are now features in each chapter that challenge students to place themselves into the roles of justice system officials—police officers, prosecutors, and judges—and to make decisions about actual situations that have arisen in cities around the country. Topically, there is new coverage of racial profiling by police, gun control, police training, human trafficking, bail reform, the privatization of prisons, the use of technology, and solitary confinement. Amid significant budget cuts affecting criminal justice agencies at all levels of government, we have integrated discussions of the impacts of these budget reductions into topics concerning actors and agencies across the justice system. In addition, new topics are covered in the “Close Up,” “The Policy Debate,” and “Evidence-Based Practice and Policy” boxes, which focus on contemporary issues such as asset forfeiture, police body cameras, police training on implicit bias, police policies on use of force, and evidence-based practices in probation. The remainder of this section outlines the major content changes in the book and then examines the elements in each chapter that are new to this Ninth Edition.



## Enhanced Coverage

**Highly Publicized, Contemporary Issues** Among the most significant developments affecting the justice system are contemporary controversies that have captured the public’s attention through heavy news media coverage. In particular, key events in 2014 and 2015 included videotaped incidents of police officers’ use of force, especially white officers’ actions leading to the deaths of African American suspects. Incidents such as those in Ferguson, Missouri; New York City; Cleveland, Ohio; North Charleston, South Carolina; and Baltimore led to large-scale public protests, and the civil disorder in Ferguson and Baltimore resulted in extensive property damage and arrests. These incidents brought into sharp focus debates about use of force, police–community relations, and discrimination in the justice system. In order to highlight and examine these and other issues, we introduce a new feature, “Current Controversies in Criminal Justice.” The focus on current controversies is used to illuminate aspects of each segment of the system, from policing to courts to corrections to juvenile justice. Several of these features concern police use of force and police–community relations. For example, one examines the consequences of aggressive, racially skewed stop-and-frisk practices. Others focus on issues elsewhere in the justice system, such as the “Ban the Box” movement to help ex-prisoners avoid having their job applications summarily rejected regardless of their qualifications.

**Additional Opportunities to Develop Students’ Analytical Skills** A new feature in each chapter entitled “You Make the Decision” places students in the role of decision makers as they analyze how they would address specific problems and situations. These scenarios include the FBI Director dealing with armed people occupying federal property, a state legislator considering new laws, and a police officer deciding whether to make a stop-and-frisk search. The decision-making challenges also focus on issues in courts and corrections, such as a prosecutor considering plea agreement options and a warden addressing problems with corrections officers’ use of force. After analyzing a given situation and arriving at their own decisions, students are directed to look online to learn what happened in the specific contemporary situation that provided the basis for the example in the feature.

**Proposals for Reform of the Justice System** In recent decades, the primary focus of the justice system has been on crime control and punishment. The past few years, however, have seen a shift toward concerns about the effectiveness and costs of policies and practices in criminal justice. There is greater recognition among policy makers about the high financial costs of incarceration and the significant societal costs of failing to prepare offenders for reintegration into society. In addition, social media and the proliferation of shared photos and videos have highlighted questions about police practices and fairness in the justice system in ways that have heightened public awareness and concern. Throughout the Ninth Edition, there are examples of reform initiatives and proposals intended to increase fairness, enhance effectiveness, and limit budgetary expenditures in criminal justice. Such initiatives include President Obama’s task force on police reform, proposals for police officers to wear body cameras, and the U.S. Department of Justice’s investigation of the city of Ferguson for using its justice system to increase revenue for its budget. Other contemporary reform issues include new training proposals to reduce police use of force, changes in asset forfeiture practices, and the debates over the use of solitary confinement.

**Expanded Coverage of Technology and Cybercrime** Rapidly expanding methods of cybercrime are imposing extraordinarily significant costs on governments, businesses, and individuals worldwide. To fully understand the ramifications of this misuse of technology, criminal justice students need to

be aware of the challenges in addressing forms of criminal behavior that are continuously shifting and adapting with each technological innovation. In addition, law enforcement officials are incorporating new technologies to combat crime, including aerial drones, police departments' use of military equipment, and GPS monitoring of parolees. These developments also raise questions about people's rights and privacy interests as justice system agencies use new devices for surveillance and monitoring.

## Chapter-by-Chapter Changes

- **Chapter 1**, “The Criminal Justice System,” opens with a new vignette concerning the 2015 trial of former television actor Dustin Diamond, who was accused of using a knife to injure a man during an altercation at a bar. The case illustrates the steps in the criminal justice process, from police questioning of the suspect to bail to trial and sentencing. The new “You Make the Decision” feature places students in the position of an FBI director who must decide how to deal with armed people occupying federal property during a protest. The “Current Controversies in Criminal Justice” feature examines whether and when it is proper to criticize police officers amid many debates about whether police are being unfairly targeted by critics. There is expanded coverage of racial profiling, including a new “Close Up” with a first-person account of aggressive stop-and-frisk procedures from the perspective of a white father observing the experiences of his biracial son. A new “Question of Ethics” feature examines different sentences imposed on a husband and wife who were both involved in the same child sex-abuse crimes.
- **Chapter 2**, “Crime and Crime Causation,” offers a new vignette concerning the shooting at Seattle Pacific University as well as a separate case of a wealthy man who embezzled money from a charitable foundation in Maine. These examples raise questions about the causes of crime and illuminate issues about how we define and treat victims of crime. The chapter contains expanded material on human trafficking, cybercrime, and sexual violence. The “You Make the Decision” feature casts students as state legislators who must consider whether it should be a crime to have sex with an underage teenager when the teen victim has misled the suspect about her age. The “Current Controversies in Criminal Justice” feature examines how terrorism—including domestic terrorism, unrelated to events in other countries—is characterized and defined in the United States. A new “Close Up” explores the polluted drinking water in Flint, Michigan, considering possible behavioral implications from children's exposure to lead in the water as well as possible criminal liability for decisions and errors that led to the toxic minerals coming into people's homes through their water pipes.
- **Chapter 3**, “Criminal Justice and the Rule of Law,” presents a new chapter opener that highlights three different insanity-defense murder cases in Iowa in 2013 and 2014. Two of the individuals were found not guilty by reason of insanity and sent to mental institutions; it is uncertain whether they will ever be eventually released. The third, a teenager whose insanity defense failed, was convicted of second-degree murder and will probably eventually be released from custody. The “Policy Debate” presents updated information from 2015 and 2016 concerning executive action on gun control and the latest judicial decisions concerning the Second Amendment. Elsewhere in the chapter there is attention to the Supreme Court's recent decision limiting the use of trained drug-sniffing dogs during traffic stops (*Rodriguez v. United States*, 2015). The new “Current Controversies in Criminal Justice” focuses on racial disparities in police stops of pedestrians and drivers. A related “You Make the Decision” feature places students in the position of a police officer who must decide whether there is a sufficient factual basis for a stop-and-frisk search. The new “Question of Ethics” concerns the Supreme Court's decision in *Heien v. North Carolina*

(2014) that permits the acceptance of evidence from vehicle searches in cases where police have mistakenly stopped a driver who did not actually violate a state traffic law. The chapter also raises the issue of uncertainty about future decisions by the Supreme Court in light of the February 2016 death of Justice Antonin Scalia.

- **Chapter 4**, “Police,” opens with the 2014 shooting of two Pennsylvania State Police troopers and the 48-day manhunt that followed to catch the survivalist, hiding in the woods, who was responsible for the shooting. This vignette effectively illustrates the unexpected dangers that law enforcement officers face every day. The chapter contains new material on evidence-based policing research that calls on police to prioritize crime prevention rather than arrests and to take more seriously the reactions of citizens, since officers depend on the cooperation and assistance of community members in order to succeed in their jobs. A new “Evidence-Based Practice and Policy” feature illuminates the use of psychology research for training officers about implicit bias as a means to reduce discriminatory law enforcement actions. The new “Close Up” discusses an emerging emphasis on de-escalation training for police officers in an effort to reduce the use lethal force. This emphasis emerged as a result of the Ferguson, Missouri, protests and other incidents involving the deaths of unarmed or mentally ill citizens at the hands of police officers. The “Current Controversies in Criminal Justice” feature describes the recommendations of President Obama’s Task Force on 21st Century Policing that investigated police reform in the aftermath of police shootings and public protests around the country. The “You Make the Decision” feature places students in the role of a police chief who must consider ways to reform policy and practice in light of recent events that triggered protests.
- **Chapter 5**, “Policing: Contemporary Issues and Challenges,” presents a new opening vignette concerning public demonstrations, property damage, and confrontations between protesters and police in Ferguson, Missouri, in the aftermath of the grand jury’s decision in the Michael Brown shooting case. A new “Close Up” feature examines 30 proposed principles on police use of force issued by the Police Executive Research Forum. The “Current Controversies in Criminal Justice” discusses issues with a “police code of silence” that were revealed by police shootings in Chicago and South Carolina. The new “Policy Debate” discusses the use of police body cameras. There is additional new material on lawsuits against police and the movement away from aggressive stop-and-frisk practices. The “Question of Ethics” feature raises questions about how police supervisors should have handled situations in which officers were shown to have beaten suspects who were immobilized on the ground.
- **Chapter 6**, “Police and Law,” opens with the Supreme Court decision in *Riley v. California* (2014) clarifying that police officers do not have the authority to conduct warrantless examinations of the contents of cell phones as part of searches incident to a lawful arrest. The new “Current Controversies in Criminal Justice” concerns the highly debated issue of whether the Apple computer company should help the FBI access the contents of a locked cell phone owned by a terrorism suspect killed after a shooting incident. The case raised issues about citizens’ privacy and the risk that government officials would gain the means to access private information from innocent citizens as well as criminal suspects. There are new examples of legal issues, such as the debate over providing *Miranda* warnings to terrorism suspects and the use of the exclusionary rule in the case of the man who provided the heroin involved in the fatal overdose taken by actor Phillip Seymour Hoffman. “You Make the Decision” challenges students to decide whether a police officer should stop questioning when a suspect makes a vague response concerning his right to remain silent. The new “Question of Ethics” points to cases of police officers seizing drivers’ cell phones in order to steal embarrassing photos of female drivers that are then shared among police officers.

- **Chapter 7**, “Courts and Adjudication,” has a new opening vignette about the 2015 murder trial of former NFL football star Aaron Hernandez, highlighting the strategies of the prosecutor and the defense attorney. The prosecutor granted immunity to the defendant’s fiancée so that she would testify, and the defense attorney raised issues about potentially sloppy police work in gathering evidence. “You Make Decision” places students in the role of a prosecutor advising police about whether they have enough evidence to constitute “probable cause” in order to seek a search warrant. There is new material on debates concerning the adequacy of voters’ knowledge about judicial candidates. The new “Current Controversies in Criminal Justice” examines the dispute concerning whether the prosecutor in Ferguson, Missouri, properly handled the grand jury proceeding in the aftermath of the Michael Brown shooting. The new “Question of Ethics” concerns prosecutors’ opposition to using newly developed DNA testing methods on preserved evidence from already-completed cases.
- **Chapter 8**, “Pretrial Procedures, Plea Bargaining, and the Criminal Trial,” uses an opening scenario that focuses on the 2015 trial of a Harvard-bound senior at a prestigious New England prep school who was accused of sexual assault. He turned down the offer of a plea agreement and went to trial on the charges, thereby illustrating many aspects of pretrial procedures and trials. There is new material on the impact of bail on the poor, including examples of recent deaths of detainees who likely would be alive if not for their inability to make bail for minor offenses. In addition, there are examples of efforts to reform bail, including proposals to end the use of cash bail for minor offenses. “You Make the Decision” examines a prosecutor’s decisions on charging and plea bargaining in a case of a high school senior who baked hashish into brownies and took them to school. “Current Controversies in Criminal Justice” discusses the use of vouchers to enable indigent criminal defendants to select and pay their own defense attorneys. The new “Question of Ethics” concerns a man who ended up with a 50-year sentence after his defense attorney advised him to refuse a plea agreement that offered a sentence of 30 years in prison.
- **Chapter 9**, “Punishment and Sentencing,” begins with a comparison of recent sentences from various states imposed on teachers convicted of having sexual relationships with underage students. The sentences range from 10 days in jail to 20 years in prison. They illustrate differences in state laws, discretionary decisions, and local legal culture and courtroom workgroups. A new “Evidence-Based Practice and Policy” topic focuses on sentencing approaches that consider how to reduce the risk of reoffending. The “Close Up” focuses on the 2013 sentences imposed in the high-profile tax crime cases of singer Lauryn Hill and actor Stephen Baldwin. The significant differences in their sentences serve to illuminate several issues about severity and fairness in sentencing. The “Current Controversies in Criminal Justice” feature focuses on the U.S. Department of Justice’s report on Ferguson, Missouri, where the city government used unfair and racially discriminatory practices to generate revenue for the city by making needless arrests and escalating fines on poor people. “You Make the Decision” concerns a U.S. Supreme Court decision examining whether a state judge can participate in a case after having been the head of the prosecutor’s office when the case was at the trial stage. There is also new information on such topics as the “good time” policy in federal prisons and U.S. Supreme Court decisions concerning capital punishment.
- **Chapter 10**, “Corrections,” presents a new “Evidence-Based Practice and Policy” topic that examines the challenges jails face in addressing the mental health needs of detainees. A new “Current Controversies in Criminal Justice” focuses on the issue of costs imposed on prisoners’ loved ones for phone calls—an issue that creates a tension between states’ desire for revenue and their objective of facilitating contact between prisoners and families for rehabilitation and reentry purposes. The “You Make the Decision” feature places students in the role of a federal judge examining a jail’s restrictive policy on correspondence.



There is new material on the right of prisoners to practice their religion under the Religious Land Use and Institutionalized Persons Act, including a “Close Up” that features the 2015 Supreme Court decision (*Holt v. Hobbs*) unanimously endorsing a Muslim prisoner’s right to grow a short beard.

- **Chapter 11**, “Incarceration and Prison Society,” begins with a new chapter opener on the shocking news reports in 2015 about corrections officers’ abuse of detainees and prisoners at New York City’s Rikers Island jail, as well as the criminal charges against officers for viciously beating a prisoner at New York’s Attica prison. There is new material on such topics as the escalating costs of incarcerating elderly prisoners, the smuggling of cell phones into prisons, the Prison Rape Elimination Act, and expanded discussion of educational and vocational programs. The new “Policy Debate” focuses on whether federal financial aid should support prisoners seeking college degrees while they are incarcerated. “You Make the Decision” places the student in the position of a warden considering how to reduce the risk of staff members using excessive force. “Current Controversies in Criminal Justice” examines the risks and problems of private contractors’ employees providing services in prisons and interacting with prisoners in inappropriate ways.
- **Chapter 12**, “Probation and Intermediate Sanctions” presents a new chapter opener highlighting the 2014 arrest of singer Justin Bieber and questions whether his fame and fortune resulted in a more lenient punishment than would have been levied on other offenders. There is new material about ways to assess the risk of probationers committing new crimes and their specific needs for supervision and services. The “Evidence-Based Practice and Policy” feature concerns elements of California’s probation practices, including targeted interventions for probationers, as featured in a report by the National Institute of Corrections. The “Close Up” illuminates problems with the use of profit-seeking private companies to administer county probation operations. “You Make the Decision” asks students to consider a probation revocation decision for a prominent local politician who traveled outside the geographic area permitted by his probation restrictions, and made excuses for flunking a drug test. The “Current Controversies in Criminal Justice” feature discusses debates about asset forfeiture and recent federal actions to reduce the national government’s facilitation of property and cash seizures by local police. A new “Question of Ethics” example highlights the problem of probation officers accepting bribes and raises questions about the need for greater attention to the hiring and training of probation officers.
- **Chapter 13**, “Reentry into the Community” presents a new chapter opener that highlights increased interest in reentry as evidenced by the U.S. Department of Justice’s designation of a week in April 2016 as “National Reentry Week.” In “What Americans Think,” a 2016 poll shows Americans’ support for rehabilitation and the removal of barriers to employment by released prisoners. The “You Make the Decision” asks whether parole should be granted to a man who has served many decades in prison for a murder he committed while a teenager. “Current Controversies in Criminal Justice” discusses the expanding “Ban the Box” movement to remove questions about criminal records from job application forms. The new “Question of Ethics” highlights the desirability—and difficulties—of siting community corrections facilities in residential neighborhoods.
- **Chapter 14**, “Technology and Criminal Justice,” presents a new opening vignette concerning the use of a police robot to examine and remove what appeared to be an explosive vest from a handcuffed robbery suspect. There is new information on such topics as counterfeit products, the kinds of information available to police through technology in patrol vehicles, the problem of untested rape kits, and biased testimony by crime laboratory scientists. There is a discussion of the Supreme Court’s decision in *Riley v. California* (2014), which bars police officers from making warrantless examinations of digital content on cell phones after an arrest made during a traffic stop. “You Make the Decision” highlights

privacy issues related to new handheld radar devices that police officers can use to “see” the presence of people through walls. The “Policy Debate” illuminates disagreements about police departments’ use of aerial drones. “New Controversies in Criminal Justice” discusses the use of surplus military equipment by police departments, an issue brought to public attention by the weapons and gear used in response to protests in Ferguson, Missouri. The “Evidence-Based Practice and Policy” feature concerns the use of GPS technology to monitor parolees. A new “Question of Ethics” concerns individual police officers’ efforts to turn off or damage cameras that might record improper actions by the officer.

- **Chapter 15**, “Juvenile Justice,” provides a new opening vignette about a Massachusetts teen who faced manslaughter charges for allegedly encouraging her boyfriend to commit suicide. There is expanded discussion of the use of pepper spray in juvenile detention facilities, research on gang violence, and the Prison Rape Elimination Act. “You Make the Decision” addresses the decisions prosecutors must make about whether to try teens as adults for violent crimes. The “Evidence-Based Practice and Policy” feature highlights diversion programs for youthful offenders. The “Close Up” and “Policy Debate” features examine corrections issues, including the use of solitary confinement and the incarceration of juveniles in facilities for adult offenders. “Current Controversies in Criminal Justice” discusses cyberbullying and sexting, with questions about whether such behavior among teens should be addressed through the criminal justice system.

## Study and Review Aids

To help students identify and master core concepts, *Criminal Justice in America* provides several study and review aids in each chapter:

- *Chapter outlines* preview the structure of each chapter.
- *Opening vignettes* introduce the chapter topic with a high-interest, real-life case or a discussion of a major contemporary policy issue, enhancing the book’s relevancy for today’s student.
- *Learning Objectives* highlight the chapter’s key topics and themes and serve as a road map for readers.
- *Check Points* throughout each chapter allow students to test themselves on content and get immediate feedback to help them assess their understanding of concepts as they progress through the chapter.
- End-of-chapter *Summaries* and *Questions for Review* reinforce key concepts and provide further checks on learning.
- *Key Terms and Cases* are listed at the end of each chapter; these are defined throughout the text in the margins and included in the Glossary.

## Promoting Understanding

Aided by the features just described, diligent students can master the essential content of the introductory course. While such mastery is no small achievement, most instructors aim higher. They want students to complete this course with the ability to take a more thoughtful and critical approach to issues of crime and justice. *Criminal Justice in America*, Ninth Edition, provides several features that help students learn how to think about the field.

- **Stop & Analyze** This feature follows each set of Check Point critical thinking questions and asks students to concretely articulate arguments and analytical conclusions about issues relevant to the preceding section of the text.

- **Close Ups and Other Real-Life Examples** Understanding criminal justice in a purely theoretical way does not give students a balanced understanding of the field. The wealth of examples in this book shows how theory plays out in practice and what the human implications of policies and procedures are. In addition to the many illustrations in the text, the “Close Up” features in each chapter draw on newspaper articles, court decisions, first-person accounts, and other current sources.
- **A Question of Ethics: Think, Discuss, Write** In the criminal justice system, decisions must be made within the framework of law but also be consistent with the ethical norms of American society. At the end of each chapter, completely revamped boxes entitled “A Question of Ethics: Think, Discuss, Write” use actual news reports on the justice system to place students in the context of decision makers faced with a problem involving ethics. Students become aware of the many ethical dilemmas that criminal justice personnel must deal with and the types of questions they may have to answer if they assume a role in the system. Moreover, they are challenged to offer solutions that administrators might employ in using training, supervision, or other approaches to reduce behavior problems by justice system employees.
- **Evidence-Based Practice and Policy** The most significant and expanding development in criminal justice today is the effort to identify and implement policies and practices that are based on the results of high-quality research. These new boxed features throughout the book highlight the opportunities and challenges of applying evidence-based approaches to policing, courts, and corrections. Each feature challenges students to consider the impediments to implementation, as practitioners may not wish to change their customary methods or they may adhere to beliefs about effective policies that are not supported by research studies.
- **What Americans Think** Public opinion plays an important role in the policy-making process in a democracy. Therefore, we present the opinions of Americans on controversial criminal justice issues, as collected through surveys.
- **The Policy Debate** In each chapter, we describe an issue such as aggressive policing or the death penalty, outline its pros and cons, and then ask students to decide which policy they think the United States should adopt. This teaching tool helps develop students’ critical thinking skills.
- **Current Controversies in Criminal Justice** This new feature in each chapter highlights a contemporary issue that poses a challenge for the justice system. Topics include racial profiling, police officers’ use of lethal force, police reform proposals, and solitary confinement for juvenile offenders. Students have the opportunity to analyze the difficult questions that arise from highly debated issues and events they have heard about through news reports. The features provide a basis for students to identify factual issues and apply analytical skills to topics that are often the focus of simplistic, ideological characterizations and debates.
- **Criminal Justice: Myth & Reality** Through the examination of widely held beliefs about criminal justice, students can look critically at the actual complexity or unexpected consequences of various policies and practices. Students are encouraged to question their own assumptions and seek information before drawing conclusions.
- **You Make the Decision** Drawing from actual recent events, these new features place students in the position of a specific decision maker in the criminal justice system. Students confront difficult decisions, such as whether to undertake a stop-and-frisk search, offer a particular plea agreement to a defendant, or change policies and training to reduce excessive use of force by corrections officers. These features are designed to engage and challenge students while building their knowledge about contemporary issues and enhancing their analytical skills.

- **Inside the Criminal Justice System & Beyond** Many students have limited first-hand knowledge of what it is like to be “processed” by the criminal justice system. A hallmark of *Criminal Justice in America* is this essay by Chuck Terry that is presented on the book’s companion website. Terry, a college professor and criminal justice scholar, served time in prison for drug offenses as a young man. Terry’s moving story provides a rare insider’s look at the steps in the criminal justice process.

## SUPPLEMENTS

**MindTap® for Introduction to Criminal Justice** The most applied learning experience available, MindTap is dedicated to preparing students to make the kinds of reasoned decisions required as criminal justice professionals faced with real-world challenges. Available for virtually every Criminal Justice course, MindTap offers customizable content, course analytics, an e-reader, and more—all within your current learning management system. With its rich array of assets—video cases, interactive visual summaries, decision-making scenarios, quizzes, and writing skill builders—MindTap is perfectly suited to today’s Criminal Justice students, engaging them, guiding them toward mastery of basic concepts, and advancing their critical thinking abilities.

**Instructor’s Manual with Lesson Plans** The manual includes learning objectives, key terms, a detailed chapter outline, a chapter summary, lesson plans, discussion topics, student activities, “what if” scenarios, media tools, and sample syllabi. The learning objectives are correlated with the discussion topics, student activities, and media tools.

**Downloadable Word Test Bank** The enhanced test bank includes a variety of questions per chapter—a combination of multiple-choice, true/false, completion, essay, and critical thinking formats, with a full answer key. The test bank is coded to the learning objectives that appear in the main text, and identifies where in the text (by section) the answer appears. Finally, each question in the test bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage so instructors can be sure they are working with an assessment and grading resource of the highest caliber.

**Cengage Learning Testing** Powered by Cognero, the accompanying assessment tool is a flexible, online system that allows you to:

- import, edit, and manipulate test bank content from the text’s test bank or elsewhere, including your own favorite test questions
- create ideal assessments with your choice of 15 question types (including true/false, multiple choice, opinion scale/Likert, and essay)
- create multiple test versions using an instant using drop-down menus and familiar, intuitive tools that take you through content creation and management with ease
- deliver tests from your LMS, your classroom, or wherever you want, as well as import and export content into other systems as needed.

**Online PowerPoint® Lectures** Helping you make your lectures more engaging while effectively reaching your visually oriented students, these handy Microsoft PowerPoint slides outline the chapters of the main text in a classroom-ready presentation. The PowerPoint slides reflect the content and organization of the new edition of the text and feature some additional examples and real-world cases for application and discussion.



## A GROUP EFFORT

No one can be an expert on every aspect of the criminal justice system. Authors need help in covering new developments and ensuring that research findings are correctly interpreted. The many criminal justice students and instructors who have used previous editions of *Criminal Justice in America* have contributed abundantly to this edition. Their comments provided crucial practical feedback. Others gave us their comments personally when we lectured in criminal justice classes around the country.

Many others have helped us, as well, and we are very grateful for their help and support. Chief among them was Senior Product Manager Carolyn Henderson Meier, who is very supportive of our efforts. Senior Content Developer Shelley Murphy contributed invaluable ideas and tremendous organizational skills as we revised the book. The project has benefited much from the attention of Senior Content Project Manager Christy Frame. Greg Hubit's managerial skills and oversight were essential to successfully moving the project from manuscript submission to the bound book. As copy editor, Carrie Crompton made valuable contributions to improving the effectiveness of our presentation, as did Marne Evans in her role as proofreader. Diane Beasley designed the interior of the book.

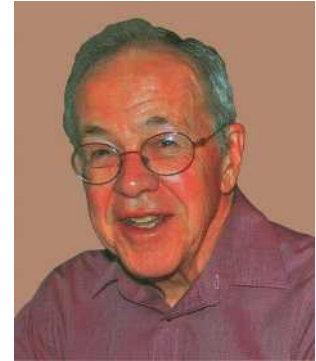
In addition, we owe our greatest debt to the late George F. Cole, the creator of the book whose recent passing has left a void that cannot be filled. He was our beloved leader, mentor, and guide who taught us how to draw from scholarly literature in order to present important concepts effectively to beginning criminal justice students. While we express our thanks to many people for their contributions, ultimately, the full responsibility for the book is ours alone. We hope you will benefit from it, and we welcome your comments.

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# About the Authors

The late **George F. Cole** (1935–2015) was Professor Emeritus of Political Science at the University of Connecticut. A specialist in the administration of criminal justice, he published extensively on such topics as prosecution, courts, and corrections. George Cole was also coauthor with Christopher Smith and Christina DeJong of *The American System of Criminal Justice*, coauthor with Todd Clear and Michael Reisig of *American Corrections*, and coauthor with Marc Gertz and Amy Bunger of *The Criminal Justice System: Politics and Policies*. He developed and directed the graduate corrections program at the University of Connecticut and was a Fellow at the National Institute of Justice (1988). Among his other accomplishments, he was granted two awards under the Fulbright-Hays Program to conduct criminal justice research in England and the former Yugoslavia. In 1995 he was named a Fellow of the Academy of Criminal Justice Sciences for distinguished teaching and research.



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# CRIMINAL JUSTICE IN AMERICA



EMERGENCY  
EXIT ON  
ALARM

# 1

# The Criminal Justice System

## LEARNING OBJECTIVES

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

National news stories often focus on horrific, frightening crimes. In 2015, significant national attention focused on shootings that caused multiple deaths: the murders of nine African American church members by a young white supremacist in South Carolina; the killing of three people at a Planned Parenthood office in Colorado by a man opposed to abortion; the murders of fourteen people at a county health department in California by a couple who sympathized with radical militants in the Middle East; and the murders of nine people at a community college in Oregon by a student who seemed to be angry at a specific instructor as well as at religious classmates (CBS News, 2016). These examples are important for examining certain kinds of crimes as well as for illuminating policy debates about gun control, police emergency response procedures, hatred-motivated crimes, and other contemporary criminal justice issues. However, these crimes are not typical of the offenses and defendants whose cases fill the nation’s courts day after day as they are processed in the criminal justice system. Yet, despite the unusual nature of the multiple-murder events, the defendants charged in these shocking crimes will go through the same stages in the justice system as other criminal defendants, from arrest to pretrial hearings to resolution of their cases through plea negotiations or trials.

In order to gain a more realistic sense of the criminal justice system, let’s illustrate the system’s processes through the example of a case that is more typical. It concerned one of the numerous less-serious offenses that occupy the time and attention of justice system officials. On Christmas evening in 2014, Dustin Diamond, a minor celebrity from his acting role in the early 1990s television series *Saved by the Bell*, went to a bar in Port Washington, Wisconsin, with his girlfriend. According to the police report filed when Diamond was arrested the following day, the girlfriend got into a fistfight with a woman whom she claimed was bothering her. Diamond stepped forward to assist his girlfriend when the other woman’s male companion intervened. In the altercation between the two men, the other man suffered minor injuries from a knife that Diamond was holding. Diamond initially claimed that he had a pen in his hand and

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that the infliction of the injury was accidental as he swung his arm to break free from the man. Other witnesses at the bar told police that Diamond had a knife. The police officers who stopped Diamond's car as his girlfriend was driving them away from the bar found a knife in the car. The police charged Diamond with one felony—second-degree recklessly endangering safety—that, upon conviction, could produce a ten-year prison sentence. He was also charged with three misdemeanors: carrying a concealed weapon; use of a dangerous weapon; and disorderly conduct. Diamond was held in the county jail from his arrest on Friday, December 26 until Monday, December 29, when he made his initial court appearance with his lawyer. The judge set bail at \$10,000, which created the opportunity for Diamond to be free as his case was processed, if he had enough money. He was released after posting \$10,000 for bail (Sacks, 2014; Associated Press, 2016).

At a preliminary hearing on January 5, 2015, Ozaukee County Judge Paul Malloy heard testimony from the police officer who had interviewed Diamond and other witnesses and had written the report that led to Diamond's arrest. Judge Malloy ruled that there was sufficient evidence to proceed with the charges against Diamond (Vielmetti, 2015). Sometimes, the defendant's attorney may be able to successfully challenge the nature and sufficiency of the evidence and win a ruling to have charges dismissed. Not so in this case, as there were multiple eyewitnesses to the event. On January 22, Diamond appeared in court again to enter his plea to the charges. He pleaded "not guilty" to all charges. The judge reduced the bail amount for Diamond, releasing him on a \$500 signature bond, meaning that he would face arrest and be charged \$500 if he failed to appear for any scheduled court hearings or violated other conditions of bail release. Conditions of release typically include limitations on travel, prohibitions on communicating with victims and witnesses, and avoidance of arrest on any new charges.

As pretrial stages proceed, the prosecutor and defense attorney engage in discussions, called "plea bargaining," about whether there can be any agreement for the defendant to plead guilty on lesser charges or for a less-than-maximum sentence. In Diamond's case, there was no agreement on a guilty plea, and the case moved forward toward trial. In preparation for trial, Diamond's attorney sought unsuccessfully to help his client's case by requesting that security video of the altercation inside the bar be excluded from evidence because it was too murky to be helpful to a jury (Associated

Press, 2016). Defense attorneys often look for ways to have evidence excluded as unreliable or because it was obtained in violation of the defendant's constitutional rights against unreasonable searches and improper questioning.

A three-day trial took place at the end of May 2015. The first day, prosecutors selected jurors from the pool of citizens called to jury service that week at the county courthouse. Prosecutors also made their initial presentation of arguments and evidence about the events of Christmas evening. On the second day, jurors heard testimony from the stabbing victim as well as others at the bar about how the fight started and the exact actions that they claim to have seen Diamond undertake. The prosecutors showed jurors the bloodstained shirt worn by the victim.

On the third day, the defense presented its case, and Diamond took the witness stand. Because of the Fifth Amendment protection against compelled self-incrimination in the Constitution, criminal defendants are not required to testify. Many defendants do not testify at their own trials because of the fear that they may stumble and sound inconsistent

under fierce questioning by the prosecutor. They may also want to avoid the risk that their presence on the witness stand will enable prosecutors to ask questions about any past criminal record. Diamond apparently decided to testify in order to make his best effort to convince the jury that the victim was injured accidentally and not "stabbed." On the witness stand, Diamond said he did not intentionally

harm the victim. He believed that the man injured himself by grabbing Diamond and thereby running into Diamond's knife, causing the small, minor cut that produced blood on his shirt. Diamond's attorney emphasized the victim's admission that he did not even know that he had been injured until he saw blood on his clothing as he was being interviewed by police outside of the bar after the incident (Ferguson, 2015; Associated Press, 2016).

After the lawyers for each side made their final arguments on the third day of the trial, the jury received instructions about the law and their decision-making responsibilities from the judge. The citizens on the jury were secluded in the jury room to discuss and decide the case without any outsiders, including the judge, observing their discussions. After several hours, they reached a verdict. They decided that Diamond was "not guilty" of the serious felony charge—recklessly endangering safety—that carried the prospect of a prison sentence. Apparently, the jury did not believe that



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the prosecution had proven “beyond a reasonable doubt” that Diamond intended to harm the victim. However, the jury convicted him on two misdemeanor charges: carrying a concealed weapon and disorderly conduct. The evidence about his guilt for these acts was apparently quite strong in the eyes of the jury. As described by multiple witnesses, Diamond pulled a knife from a coat pocket—a concealed weapon—and he was involved in a physical altercation—disorderly conduct (Associated Press, 2016).

Four weeks later, on June 25, Judge Malloy sentenced Diamond to four months in jail as his punishment for these crimes. Because his attorney filed an appeal in the Wisconsin court of appeals seeking to vacate the conviction and gain a new trial, Diamond was not required to report immediately to jail. In cases of more-serious offenses, defendants are typically taken straight to jail or prison from the courtroom as soon as their sentence is announced. If there is a fear that the defendant will flee or the conviction is based on a serious violent crime, defendants may be held in jail immediately upon conviction and kept in custody while they await the judge’s decision on the sentence. In December 2015, Diamond dropped his appeal. He reported to the county jail in January 2016 to begin serving his sentence, with the expectation that good behavior would make him eligible for work release so that he would likely spend only nights in jail during the latter part of his sentence (Associated Press, 2016).

The case against Dustin Diamond illustrates many elements of the criminal justice system. As this chapter will discuss, cases are processed through a series of steps in which justice system officials make decisions about whether a case will move forward or leave the system. In the Diamond case, police officers interviewed witnesses and gathered physical evidence, including the bloody shirt and the knife from Diamond’s car. They believed the witnesses’ accounts of the incident and were skeptical of Diamond’s statements. Undoubtedly, their skepticism about Diamond’s truthfulness was affected by his inconsistency in twice saying while being interviewed, “I had the knife in my hand, or the, ah, pen in my hand,” thus casting doubt on his original claim that he had held a pen rather than a knife (Sacks, 2014). The prosecutors relied on the police reports in preparing their case, and they evidently agreed with the officers’ assessment of the facts. Sometimes, prosecutors disagree with police officers’ conclusions or interpret events differently and use their discretion to drop charges. Not in Diamond’s case.

Judge Malloy made an assessment of the facts and made the decision at the preliminary hearing that sufficient evidence existed to permit the prosecutor to proceed against Diamond with the criminal charges. Judge Malloy also made the decision to permit Diamond to be released on bail while his case proceeded and set the conditions for his release. In some cases, judges consider defendants to be too dangerous or too

likely to flee to be eligible for pretrial release. In other situations, defendants must remain in jail because they do not have enough money to meet the bail amount set by the judge. Because the injuries to the victim were minor and the judge apparently believed that Diamond would appear at scheduled hearings, bail was set with conditions that Diamond was able to meet—initially, the \$10,000 bail amount, which was later reduced to a signature bond, essentially a promise to show up and to obey rules. Yet Diamond actually spent several days in jail after his arrest because he had the bad luck to be arrested on a holiday weekend, so he could not appear before a judge for a bail hearing until the following Monday. Other defendants for lesser offenses may be released on bail the same day they are arrested or the following morning. Jails can be dangerous places. Thus, just being arrested, even if one is innocent and charges will be dropped within days, can raise risks. There is potential harm to one’s health and physical safety as well as potential financial harm to one’s family if one loses a job or misses a rent payment as a consequence of the arrest.

Ultimately, Diamond’s fate rested on the discussions and final decisions of citizens drawn from the community to serve on the jury. Their decisions were based on their understanding of the witnesses’ statements and the arguments by the prosecutors and defense attorneys. In the end, the jurors’ understanding of what they heard in court determined the outcome of the case.

In this chapter, we examine how American criminal justice operates as a system. Accordingly, we shall see how that system’s processes are shaped by its goals, scarce resources, individual decision makers, and other factors that can lead to divergent treatment for similar criminal cases. In cases that appear to be very similar, one defendant may be convicted and another defendant may be set free. Why do similar cases produce different results? Differences in the effectiveness of police and prosecutors in gathering evidence and in the persuasiveness of defense attorneys’ arguments can be major factors. Another factor may be the attitudes and values of the decision makers in a case. For example, prosecutors in different counties may have varying attitudes about whether to seek maximum punishments for drug crimes or youthful defendants. Also, some jurors may make very close examinations of evidence while others may be swayed by their own emotional reactions to the crime or to the defendant.

Differences in the treatment of suspects, defendants, and offenders also may sometimes be related to issues of race, ethnicity, and social class, as these demographic factors interact with the criminal justice system’s processes.

Anyone in the United States, including a law-abiding college student, can be drawn into the criminal justice system in a variety of roles: victim, witness, juror, defendant. Thus, all Americans need to gain an understanding of the system, how it operates, and how it affects people’s lives.



## The Goals of Criminal Justice

**crimes** Actions that violate laws defining which socially harmful behaviors will be subject to the government's power to impose punishments.

***mala in se*** Offenses that are wrong by their very nature.

***mala prohibita*** Offenses prohibited by law but not necessarily wrong in themselves.

The criminal justice system focuses on the protection of the public both through the investigation and punishment of people who commit **crimes** and through efforts to prevent people from committing harmful acts. In a general sense, crimes are actions that violate laws defining which socially harmful behaviors will be subject to the government's power to impose punishments, including deprivation of liberty through imprisonment.

Why does the law label some types of behavior as criminal and not others? For example, why is it a crime to use marijuana in most states when it is legal to drink alcohol, another intoxicating, addictive substance with harmful health effects? The criminal law is defined by elected representatives in state legislatures and Congress. They make choices about the behaviors that the government will punish. Some of these choices reflect broad agreement in society that certain actions, such as rape and murder, are so harmful that they must be punished. Such crimes have traditionally been called ***mala in se***—wrong in themselves.

However, legislatures may decide that certain actions are criminal even though many people in society disagree about the harmfulness of those actions. These crimes are called ***mala prohibita***—they are crimes because they are prohibited by the government and not because they are necessarily wrong in themselves. Everyone does not agree, for example, that gambling, prostitution, and drug use should be punished.

The definition of **crimes** in criminal law is the starting point for the criminal justice system. A good way to begin our study of that system is to look at its goals. Although these goals may seem straightforward when expressed as ideas, defining what they mean in practice can be difficult.

In 1967 the U.S. President's Commission on Law Enforcement and Administration of Justice described the criminal justice system as the means that society uses to "enforce the standards of conduct necessary to protect individuals and the community" (U.S. President's Commission, 1967:7). This statement provides the basis for our discussion of the goals of the system. Although there is much debate about the purposes of criminal justice, most people agree that the system has three goals: (1) doing justice, (2) controlling crime, and (3) preventing crime.

Periodically, people undertake public protests to call attention to social problems and crime in their communities. How can the interest and energy generated by such public events be translated into concrete actions to prevent crime?



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## Doing Justice

Doing justice concerns fairness and equity in the treatment of people who are drawn into the criminal justice system. In the United States, doing justice forms the basis for the rules, procedures, and institutions of the criminal justice system. Without this primary goal, little difference would exist between the U.S. system and that of authoritarian countries where people lack legal rights.

Americans want to have fair laws, and they want to investigate, judge, and punish fairly. But doing justice requires upholding the rights of individuals as well as punishing those who violate the law. Thus, the goal of doing justice embodies three principles: (1) offenders will be held fully accountable for their actions; (2) the rights of persons who have contact with the system will be protected; and (3) like offenses will be treated alike, and officials will take into account relevant differences among offenders and offenses (DiIulio, 1993:10).

Doing justice successfully is a tall order. We can easily identify situations in which criminal justice agencies and processes fall short of this ideal. But unlike in authoritarian political systems, in which criminal justice primarily serves the interests of those in power, in a democracy, doing justice to serve the interests of the people is a key goal. By serving society's interests in fairness and justice, the American criminal justice system can gain the public support necessary for pursuing the additional goals of controlling and preventing crime.

## Controlling Crime

The criminal justice system is designed to control crime by arresting, prosecuting, convicting, and punishing those who disobey the law. A major constraint on the system, however, is that efforts to control crime must be carried out within the framework of law. Thus, criminal law not only defines what is illegal but also outlines the rights of citizens and the procedures officials must use to achieve the system's goals. Police officers and prosecutors must follow the law when investigating crimes. They cannot use unrestrained methods of their own choosing in conducting searches and questioning suspects.

In every city and town, the goal of crime control is actively pursued: police officers walk a beat, patrol cars race down dark streets, lawyers speak before a judge, probation officers visit clients, and guards patrol the grounds of a prison. Taking action against wrongdoers helps control crime, but the system must also attempt to prevent crimes from happening.

## Preventing Crime

Crime can be prevented in various ways, but perhaps most important is the deterrent effect of the actions of police, courts, and corrections. These actions not only punish those who violate the law but also provide examples that will likely keep others from committing wrongful acts. For example, a racing patrol car responding to a crime scene serves as a warning that law enforcement is at hand. Technological advances can deter crime as well, with new kinds of surveillance and searches, though sometimes at a cost to privacy and personal liberty.

Citizens do not have the authority to enforce the law; society has assigned that responsibility to the criminal justice system. Thus, citizens must rely on the police to stop criminals; they cannot take the law into their own hands. Still, they can and must be actively engaged in preventing crime by such commonsense measures as locking their homes and cars, installing alarm systems where appropriate, and refraining from walking in dangerous areas.

## Advancing Goals: Evidence-Based Practices

Advancing the goals of criminal justice requires the development of specific policies to deal with a host of issues such as gun control, stalking, hate crimes, computer crime, child abuse, and global criminal organizations. Many of these issues

are controversial. Policies concerning these and other issues must be hammered out in the political arenas of state legislatures and Congress. Any policy choice carries with it costs and consequences as well as potential benefits, yet predicting consequences can be difficult. In addition, legislators often enact laws based on their *beliefs* about the nature of a problem and the responses that will be effective in addressing the problem. These beliefs are not necessarily based on a thorough understanding of available research on the nature of problems in criminal justice. Similarly, police chiefs, prison wardens, and others who carry out laws and policies may rely on practices to which they have become accustomed rather than explore the full range of possible effective alternatives. Decision makers' reliance on unsupported beliefs or customary practices may result in missed opportunities to develop policies and practices with the potential to more effectively advance desired goals.

#### evidence-based practices

Policies developed through guidance from research studies that demonstrate which approaches are most useful and cost-effective for advancing desired goals.

One emerging trend in creating policies within criminal justice is the use of **evidence-based practices**. These are practices that have proven effective in research studies. Social scientists examine many aspects of criminal justice, including the causes of crime, the effectiveness of crime control strategies, and the efficiency of police procedures, so as to discover which approaches are most useful and cost-effective in addressing problems. Research sometimes shows that certain approaches are unproven or ineffective. As described by Faye Taxman and Steven Belenko (2013:3), evidence-based practices are “practices that *should* be widely used because research indicates that they positively alter human behavior.”

Legislators, police chiefs, prison wardens, and other decision makers are increasingly looking to scholars' research for guidance about which laws and policies to develop. However, even when evidence-based procedures are available, they are not always known or followed by decision makers. Legislators and other policy-makers may resist adopting them because they conflict with their own strongly held beliefs or commitment to familiar, customary approaches. For an example, read the “Evidence-Based Practice and Policy” feature on a contemporary debate about drug policy that is influenced by evidence-based practices.



## EVIDENCE-BASED PRACTICE AND POLICY

### Drug Policy

Research indicates that it is less expensive to provide drug-addicted offenders with treatment than it is to send them to prison. Moreover, although many people with substance-abuse problems will eventually fall into their old ways, treatment provides a greater likelihood that they will not, and therefore will avoid committing new crimes. In one New York program, it cost only \$32,000 to send drug-addicted offenders to a two-year residential treatment program that included job training; it would have cost taxpayers twice as much to send them to prison for the same time period. It is even less expensive for those offenders who pose no danger to society to live at home and attend outpatient treatment programs. Treatment programs inside prisons can also improve offenders' likelihood of avoiding drugs upon release, an important consideration as states speed up early releases in order to reduce the costs of imprisonment.

Thus, evidence-based policies should lead Americans to consider the question of whether it would be best to treat the use of addictive and intoxicating substances as a public health problem instead of a crime problem. Indeed, why is the use of such substances criminal while the consumption of

alcoholic beverages is legal? Why not apply the education and treatment approaches used for nicotine addiction and alcoholism to marijuana and possibly to cocaine, methamphetamine, heroin, and prescription painkillers, as well?

Yet, as with other evidence-based approaches, there can be practical impediments to shifting criminal justice policies about substance abuse in an entirely new direction. Not only is it difficult to shift viewpoints about this behavior that has been loudly condemned as “illegal” and “wrong” for many years, it is all the more difficult to change approaches when millions of dollars have been spent on law enforcement efforts and correctional institutions to treat it.

In recent years, however, two factors have pushed legislators and other decision makers to reconsider American drug policy. First, the public's attitudes toward certain drug problems are changing. In an October 2015 poll, 58 percent of Americans supported legalizing the use of marijuana. Voters in several states have approved ballot issues that legalize the



use of marijuana for medical purposes by people who have the approval of a doctor. In 2012, voters in Colorado and Washington went a step further and approved ballot issues that legalized individuals' possession and use of marijuana. These decisions may cause new problems; officials worry about such matters as driving under the influence of marijuana, medical harm to marijuana smokers' lungs, and a potential increase in marijuana use by young people. Despite these concerns, the slow spread of decriminalization efforts through ballot issues approved by voters clearly indicates that the public is becoming less supportive of treating marijuana use as a crime issue.

In addition, the sharp rise in prescription drug abuse, heroin use, and overdose deaths among young whites in suburbs and small towns has led many whites to increasingly view drug use as a public health problem rather than as a crime. Observers have noted that when drug use was associated with urban, minority communities, "political figures of both parties staunchly defended [severe punishment] policies as necessary to control violent crime . . . [but] with heroin ravaging largely white communities . . . the mood is more forgiving" (Seelye, 2015).

Second, government budget cuts throughout the country have led officials to look for ways to send fewer people to prison and to reduce the sentence lengths that helped to dramatically expand the country's prison population in the last three decades. In 1980, there were 320,000 offenders serving sentences in American prisons. By the beginning of 2015, that number had risen to more than 1.5 million, despite the fact that crime rates had fallen steadily since 1992 (Kaeble, Glaze, Tsoutis, & Minton, 2015; BJS, 2016). A tough-on-crime approach to sentencing led to hundreds of thousands of additional offenders being imprisoned. Many of these offenders were imprisoned on drug charges or for crimes such as thefts and robberies that were committed to support a drug habit. Their imprisonment has been enormously expensive, requiring the building and staffing of new prisons that supply food, shelter, medical care, and supervision. The increased rate of imprisonment has also created huge costs for the spouses and children of prisoners, because a parent and breadwinner can be sent away for years for committing the relatively minor crime of possessing illegal drugs. The desire to reduce financial costs and human consequences from severe drug offenses has led conservative Republicans and liberal Democrats to work together in Congress in the pursuit of reforms that might enjoy broad political support.

These two influences—changing public attitudes toward drugs and budgetary pressures to reduce prison populations—will not necessarily lead to the legalization of drugs. The U.S. Department of Justice maintains that marijuana and other drugs remain illegal under federal law no matter what voters in any state decide. However, the impetus for reform has pushed officials to look at research studies in considering how to cut costs by using evidence-based practices. For example, studies indicate that specific family counseling programs and school-based intervention programs can reduce alcohol and drug abuse by teenagers. Such early intervention programs may save society from long-term problems if these youths move away from a path that might have led them to engage in criminal acts that could eventually result in expensive periods of imprisonment.

Budgetary pressures and changes in public attitudes have combined to produce reconsideration of several aspects of drug policy, offering new opportunities to consider evidence-based practices. However, it remains to be seen whether states will devote significant resources to prevention and treatment. Governments could save resources merely by reducing enforcement of marijuana laws, shortening prison sentences, and moving prisoners out through early release. But in the long run, more money might be saved through investment in research-based treatment programs that reduce the problem of drug abuse.

### Implementing New Practices

Legislators face difficult choices when evidence-based practices clash with long-standing policies that may be firmly fixed in the minds of officials and the public. How many legislators would risk political backlash by advocating that the consumption of marijuana be decriminalized and that drug use be treated as a public health problem that requires an investment in rehabilitation rather than an emphasis on imprisonment? Public attitudes are shifting in many regions, but significant numbers of American voters continue to hold punitive views about drug use. In addition, a shift to evidence-based policies may give rise to new, unanticipated problems, such as increased drug use or more robberies and thefts by drug users seeking to support their habits once the deterrent effect of criminal laws is removed.

Imagine that you are a legislator. Write a memo providing at least three arguments that present your position on whether the United States should treat substance abuse as a public health problem instead of a crime problem.

### Researching the Internet

To listen to leading experts debate whether drugs should be legalized, go to <http://www.npr.org/2012/11/15/165211562/should-we-legalize-drugs>.

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