

“Ethics in Criminal Justice”.

- In Section 1 of this course you will cover these topics:
 - What Is Criminal Justice?
 - The Crime Picture
 - The Search For Causes
 - Criminal Law

Topic : What Is Criminal Justice?

Topic Objective:

At the end of this topic student would be able to:

- Identify the theme on which this textbook builds.
- Highlight the differences between the individual-rights and public-order perspectives.
- Explain society's need for a system of order maintenance, and detail the role of law within that system.
- Describe the personal sacrifices necessitated by public order.
- Expound upon the relationship of criminal justice to social justice and other wider notions of equity and fairness.
- Explain the structure of the criminal justice system in terms of its major components.
- Describe the differences between the consensus and conflict models of the criminal justice system.
- Describe the process of American criminal justice, including the stages of criminal case processing.
- Explain the meaning of due process of law, and identify where due process guarantees can be found in the American legal system.
- Explain how multiculturalism and diversity present special challenges to, and opportunities for, the American system of criminal justice.

Definition/Overview:

Topic 1 accomplishes five objectives. First, it describes the major theme of the book. Second, it discusses whether the criminal justice process functions as a system. Third, it provides an overview of the textbook and the criminal justice process. Fourth, it explains the differences between criminology and criminal justice. Finally, it explains how multiculturalism presents unique challenges and opportunities for the criminal justice system. The author describes the major theme that will be revisited throughout the textbook. This theme, individual rights versus public order, provides a framework for thinking about difficult criminal justice issues. This framework involves balancing individual rights (i.e., the right of individuals to be protected from overzealous and intrusive government agents) against community interests (i.e., the right of society to feel secure from crime). Individual rights and community interests are delicately balanced in our criminal justice system. When a movement is made to expand individual rights, such as in the 1960s, community interests are affected. Conversely, and more recently, as community interests have expanded, individual rights have been limited. To help put these shifts of the pendulum in perspective, this topic discusses a series of celebrated cases such as the Oklahoma City bombing and the September 11 attacks. The way one balances these two competing interests revolves around each person's conception of justice. What is fair? Can the system be fairer? Everyone including politicians, victims, defendants, police officers, prosecutors, and judges attempts to balance individual and community interests, which affects how justice is applied. Individuals who prefer to protect freedoms and liberties are called individual-rights advocates. Individuals who believe that the interests of society should take precedence over liberties are called public-order advocates. It is important to realize that (1) understandings of justice are different for everyone and (2) our definitions are molded by our life experiences. The criminal justice system is the mechanism in place for meting out justice when violations of criminal law occur. Yet does the criminal justice system function as a system? Supporters of a consensus model of justice say yes.

This model argues that the system is predictable, that there is a high level of cooperation among agencies and individuals in the system, and that the components of the system—police, courts, and corrections—operate without conflict. Conversely, the conflict model of criminal justice views the operation of these components from a different perspective. Supporters of this model argue that the goals of criminal justice agencies and the individuals working within them differ and that the systems processes are affected by outside influences such as political pressure, informal arrangements, media coverage of high-profile cases, and discretion. Both models have some value in helping us understand the operation of the criminal justice system. There are times when the agencies of criminal justice work closely together, representing a consensus model. For example, when criminal justice crises arise, such as when the federal building in Oklahoma City was bombed or the World Trade Center and the Pentagon were attacked, all components were focused on similar goals. However, at other times the goals of each agency conflict. For example, a prosecutor may want police officers to crack down on juvenile crime. Police officers, however, may feel that other crimes, perhaps drunk driving, should take priority. The author provides an overview of the book and introduces you to the stages in the justice process. It is important that you familiarize yourself with these stages. In general, the criminal justice process starts when a citizen (victim or witness) calls the police to report a crime. The police are responsible for conducting the investigation, making an arrest (if they can establish probable cause), and booking the suspect. The court process begins when this suspect appears before a judge at the first appearance. Here, the judge decides what should be done with the suspect pending the outcome of the case. A grand jury or preliminary hearing will then be conducted to determine whether the criminal justice process should continue. An information can result from a preliminary hearing, and an indictment can result from a grand jury hearing. The suspect then will be arraigned on the charges. A trial will be held, and if the person is found (or pleads) guilty, then sentencing occurs. It is then the responsibility of the corrections component of the criminal justice system to carry out the sentence. This topic also discusses Herbert Packard's two models of the criminal justice system. The first model is the crime-control model, which prioritizes efficiency in order to maintain social order. In contrast, Packard's due process model prioritizes individual rights and protecting innocent citizens.

Key Points:**1. Overview**

The main theme of Criminal Justice Today is individual rights versus public order. The theme stresses the need to balance the protection of each individual's constitutional rights with the protection of society as a whole. Ensuring that the basic rights of individuals are not infringed upon while society is protected through the maintenance of public order requires a delicate balancing act. The study of criminal justice involves examination of the processes by which the various components of the system interact to maintain the balance between individual rights and public order. In considering the potential impact of social issues and technological changes on future crime, administrators must also address systemic changes mandated by increased social awareness of and sensitivity to the multicultural makeup of American society.

2. Individual-Rights and Public-Order Perspectives

The central feature of the individual-rights perspective is the focus on its protection of personal freedoms. This perspective is concerned about unnecessarily restrictive government actions that limit or eliminate these freedoms. The central feature of the public-order perspective is in the acknowledgment that the interests of society should take precedence over individual rights. These perspectives are in conflict. The individual-rights perspective is willing to sacrifice public safety in order to protect important personal freedoms. The public-order perspective is willing to eliminate or limit rights to increase public safety.

3. Importance of public order

Public order provides a firm footing for interpersonal and interinstitutional relationships, hence contributing to social and economic growth and stability. Laws lend predictability to society and allow for effective planning within society's legal framework. Without order, predictability evaporates and along with it go safety and security. Individuals and organizations would find themselves unable to plan or to function in consort with one another. The strongest would rule, and the weak would be subject to their whims. Threats and the fear engendered by potential threats would take the place of law. Similarly, in a disordered society, America's declared belief

that all men are created equal would be a hollow notion, as the lack of order would negate society's ability to ensure equality in the treatment of its members. Unequal treatment of any social group is oppressive, and history has shown that such oppression, over time, sparks rebellion and may even lead to anarchy or a new social order. As with some of the preceding discussion questions, this question is a matter of perspective. Residents of high-crime, gang-ruled urban areas in south-central Los Angeles, Detroit, and elsewhere might well argue that public order is virtually nonexistent in their experience. Interestingly, those same residents might also complain that too much public order invades their lives in the unwanted form of order imposed by gangs. Likewise, deadbeat dads arrested for failing to pay court-ordered child support might believe that public order is out of control and invasive.

Meanwhile, fugitive felons brazenly walking the streets knowing that the overloaded system helps them remain free are certain that there is just enough public order to suit them. Our sense of whether there is too much or too little public order, then, is driven by our personal experiences with the systems and agencies that impose public order on each of us. Most people would view the abolition of law and the dismantling of government as regression to a less civilized state. The term lawlessness, commonly used to describe riots and other forms of social disorder, generally evokes an image of an undesirable social state. Popular fiction writers often employ the theme of a lawless society without governmental agencies to maintain order as the premise of their books and movies. Usually, the social state is depicted as having deteriorated to near-anarchy, with the predatory strong ruling the powerless weak. In such scenarios, a crude criminal justice system is typically depicted as a vigilante system used arbitrarily by the strong with little regard for justice. There are those, however, who yearn for release from governmental controls. Real-life antigovernment militia members and radical antitax advocates, such as the Montana Freemen political group, seem to view a lawless society as a virtual utopia. They oppose intrusion by the various levels of government and the laws each level imposes. Such intrusion, they believe, inherently denies them the right to live as free men and women unencumbered by externally mandated social obligations that they are forced to honor. The theme of the strong ruling the weak is accepted in these circles as the natural order, that is, the survival of the fittest.

4. Facilitation of Public Order

True and complete freedom means living without constraints of any kind. Public order, however, relies on a social bond between society and the individual. That bond involves the submission of society's members to controls imposed by laws, governmental regulations, and social customs. Although society protects us through its laws and through the mechanisms it establishes to enhance security (such as the justice system), it is our duty to responsibly follow the law and to contribute to public safety.

5. Public Interest in Public Order

History is replete with examples of citizens giving up too much to achieve order. Within the context of their limited society, the citizens of Nazi Germany may have considered the stringent controls imposed by the Nazi state including the extermination of German Jews to be essential to their way of life. In the greater context of the world community, however, those controls were seen as excessive, even horrific.

Ethnic cleansing programs in various countries during the second half of the twentieth century, as well as the infamous apartheid laws formerly practiced in South Africa, exemplify the efforts of oppressive regimes to achieve their own forms of public order. Such activities typically evoke condemnation as a world response, on grounds that they violate elemental human rights. The practitioners of such activities, however, argue that the pursuit of their narrowly defined state of public order justifies their abhorrent practices.

6. Criminal Justice and Its Relations to Social Justice

Social justice embraces all aspects of civilized life and is linked to broader notions of fairness and right and wrong. Criminal justice is one aspect of this wider form of justice. Criminal justice is an important mechanism by which justice can be achieved. Not only do victims, defendants and others seek and expect fairness from the criminal justice system, but the activities and actions of the criminal justice system often spark society to consider what is considered equal justice.

7. Main Components of the Criminal Justice System

The criminal justice system encompasses three main components: police, courts, and corrections. These three components interrelate in several ways. First, they interact in the processing of specific cases. For example, police officers conduct investigations and make arrests. Offenders then must be processed by the court system, but police officers play a critical role in this process, as they might confer with prosecutors or testify at motion hearings or trials. If an offender is convicted, prosecutors might recommend the sentence and judges may consider prison overcrowding issues when deciding the final sentence. Second, these components interact at a policy level. The formal and informal decision-making processes of each component can impact the strategies and priorities of the other components. Third, the components are increasingly working together in various ways to respond to specific types of crimes. For example, drug, gun, and violent crime task forces often include line-level and command staff from the different components. The interactions between components often result in conflict. Each component focuses on achieving different goals, and the priorities of the different components may not be consistent. A new criminal justice strategy might be implemented by one component, but the goals of that program may not be consistent with the other components.

8. Two Models of the Criminal Justice System

This chapter describes the consensus model, which assumes that the component parts of the criminal justice system strive toward a common goal and that the movement of cases and people through the system is smooth due to cooperation between the various components of the system, and the conflict model, which says that criminal justice agency interests tend to make actors within the system self-serving and that pressures for success, promotion, pay increases, and general accountability fragment the efforts of the system as a whole, leading to a criminal justice non-system. Given the great variation in attitudes about crime and punishment, varying propensities toward liberalism or conservatism, the strength of local government leadership, the degree of citizen activism or ambivalence, and so on, it would be difficult to label either model as more realistic than the other.

To a large extent, it's a matter of perspective. For example, many view the consensus model as the ideal of the criminal justice system and the conflict model as the reality. An incumbent state

attorney general running for reelection, therefore, might well depict the criminal justice system within his or her state as a shining example of the consensus model at its best while his or her opponent depicts it as a chaotic example of the conflict model at its worst. Many academicians, in contrast, will say that the conflict model is more realistic that is, it depicts the criminal justice system in terms of its everyday realities. In fact, the various agencies that make up the justice system are often at odds and are concerned only with their own interests rather than with system-wide goals. Similarly, individual agencies rarely focus on society-wide values such as social justice and procedural fairness; instead they are primarily concerned with meeting legislative, budgetary, and administrative requirements.

8. Stages of Case Processing

8.1 Investigation, arrest, and booking.

The process generally begins with the investigation of a crime. A witness or victim might report a crime, a patrol officer may discover a crime, or police officers might use undercover operations to discover crime. An arrest involves taking a person into custody. Booking involves taking pictures and fingerprints and recording personal information.

8.2 First appearance, preliminary hearing, and arraignment.

At the first appearance, the judge tells suspects of the charges, will advise them of their rights, and will decide bail. The purpose of the preliminary hearing is to determine whether there is sufficient evidence to continue the criminal justice process. At the arraignment, the suspect hears the charges and is asked to enter a plea.

8.3 Adjudication.

Cases are resolved by either plea bargaining or trial. Cases that go to trial are governed by the rules of evidence, procedural law, and precedent. Trials are best thought of as a contest between prosecuting and defense attorneys.

8.4 Sentencing.

Once a person pleads guilty or is convicted at trial, the judge must impose a sentence. Judges have a wide range of sentences available to them, but their discretion is limited by statute and guidelines. Defendants do have the right to appeal.

8.5 Corrections

Corrections begin after a sentence is imposed. Among the options available to judges are prison and probation.

9. Due Process of Law and American Legal System

Due process means procedural fairness. Due process of law includes a law creating and defining an offense, an impartial tribunal, accusation in proper form, notice and opportunity to defend, trial according to established procedures, and discharge or conviction. These rights are guaranteed by the Fifth, Sixth, and Fourteenth Amendments.

10. Multiculturalism and Social Diversity

The familiar American motto suggests a homogenized society bonded together as a unified national community. That ideal is most often visible in times of crisis, such as during Americas involvement in the Second World War or following the 1995 bombing of Oklahoma Citys Murrah Federal Building. On a daily basis, however, the reality is that American society is an amalgam of ethnic, racial, religious, and cultural influences. What else could be expected in a nation of immigrants? Now, in these early days of the twenty-first century, we are seeing these influences gain strength because of the dramatic social changes wrought by the civil rights movement of the mid-twentieth century and the emergence of the Information Age in the late twentieth century. As a result, American society now has a much greater awareness of both the realized and potential contributions of the diverse elements from which it grew, as well as increasing respect for, and sensitivity to, these differences. The text defines multiculturalism as the existence within one society of diverse groups that maintain unique cultural identities while frequently accepting and participating in the larger societys legal and political system. Diversity is simply the condition of being different. The diversity within American society, then, makes the United States a textbook example of multiculturalism.

11. Impacts of Multiculturalism and Diversity on the Practice of Criminal Justice in Contemporary American Society

Few governmental systems are as impacted by multiculturalism and diversity as is the criminal justice system. Perhaps the most dramatic effects are noted in the field of law enforcement. Continuing revelations of past or current wrongs committed by police against individual members of the public wrongs unarguably shown to have been motivated by racial or ethnic bias have significantly eroded public trust in policing agencies. Some current policing methods, particularly racial profiling, are thought by many to reflect ongoing institutional bias and are increasingly being successfully challenged in court. That is not to suggest that law enforcement administrators are negligent or insensitive to issues arising from our diversity. To the contrary, significant strides have already been made in many agencies and continue at all jurisdictional levels. New York City police responses in the wake of the World Trade Center attacks in 2001, for example, were notably restrained when compared to law enforcement responses following the bombing of the Murrah Federal Building. In the latter case, an almost universal presumption that Arab terrorists were the likely perpetrators led to equally universal embarrassment when the actual bomber turned out to be a non-Muslim homegrown military veteran. In the New York instance, however, civic leaders and police administrators moved quickly to quash reprisals against Arab-Americans and to foster impartiality among investigators pursuing leads in the case. The courts, too, particularly at the appellate level, are confronted with multicultural factors that demand consideration as rulings are made. A ruling against an offender charged with violating American law by practicing an ethnic or religious tradition can create backlash within the affected ethnic community. The centuries-old practice of female circumcision, for example, typifies the kind of issue that presents a clear conflict between American law and cultural tradition. Correctional leaders must also address multiculturalism on a daily basis. Even such a seemingly benign activity as developing the daily menu for feeding the inmate population, for example, can present serious problems. In the face of endless lawsuits and court rulings, leaders must sometimes scramble to meet inmates religious or ethnic needs while trying to operate within the constraints of limited budgets.

Challenges facing justice professionals include such complex issues as how to police communities or neighborhoods with values different from those of mainstream society; whether immigrants and foreign national visitors can be justly judged in court proceedings that apply standards and laws that may be completely foreign to them; the widespread and growing need for language translation (certainly a ripe opportunity for the adaptation of technological innovations); the problem of gang influences in prison populations comprised of vastly different cultural groupings; and the need for cultural sensitivity among criminal justice practitioners. Justice professionals will face these and innumerable additional challenges in the pursuit of equity for all members of our complex society. Multiculturalism presents both profound problems and significant opportunities for American justice administrators. While some argue that oversensitivity to multiculturalism and diversity has a corrosive effect that weakens the justice system, others see our growing social awareness as a catalyst for change that will yield greater justice for all. Like all segments of society—business and industry, education, the military, and so on—the criminal justice system's adoption of functional changes to accommodate evolving social concerns is a complex process that inevitably moves far too slowly for some and way too fast for others. It is critical to note, though, that the process has begun and is continuing.

Topic : The Crime Picture

Topic Objective:

At the end the student will be able to:

- Name and compare the two major national crime data gathering programs in the United States today.
- Explain what crime statistics can tell us about crime in America.
- Discuss some of the limitations inherent in statistical reports of crime.
- Describe the FBI's Crime Index, and list the eight major crimes that make up the index.
- Explain why crime statistics are generally expressed as rates instead of simple numerical tabulations.

- Describe the two major categories of Part I offenses in the Uniform Crime Reports.
- Explain the hierarchy rule, and discuss how it affects crime reporting.
- Discuss the meaning of the term clearance rate.
- Explain how the National Incident-Based Reporting System operates, and describe how it differs from the traditional Uniform Crime Reporting Program.
- Identify the special categories of crime discussed in this topic.

Definition/Overview:

Two comprehensive national programs gather crime statistics in the United States today: the FBI's Uniform Crime Reporting Program and the Bureau of Justice Statistics' National Crime Victimization Survey. These programs provide a picture of victim characteristics through self-reports (the NCVS) and reports to the police (the UCR). Both programs also permit historical comparisons in crime rates and may allow for some degree of predictability as to trends in crime. It is important to realize, however, that all statistics, including crime statistics, are inherently limited by the way in which they are gathered. Statistics can only portray the extent of crime according to the categories they are designed to measure and in terms understood by those who provide the information.

Lacking in most of the crime statistics that are reported today is any realistic appraisal of the human costs of crime, and it is important to remember that statistical aggregates of reported crime, whatever their source, do not reveal the lost lives, human suffering, lessened productivity, and reduced quality of life that crime causes. Unlike the fictional characters on TV crime shows, real-life crime victims lead intricate lives and it is too easy to lose sight of the people behind the numbers. On the other side of the balance sheet, crime statistics also fail to adequately identify the social costs suffered by offenders and their families. The social deprivation that may lead to crime, the fragmentation of private lives following conviction, and the loss of individuality that comes with confinement are all costs in which society must share, just as they are the culturally imposed consequences of crime and failure. Today's data-gathering strategies fall far short of gauging the human suffering and wasted human potential that both cause and follow crime.

Statistical pictures of crime can serve as powerful tools for creating social policy. Decision makers at all levels, including legislators, other elected officials, and administrators throughout the criminal justice system, rely on crime data to analyze and evaluate existing programs, to fashion and design new crime-control initiatives, to develop funding requests, and to plan new laws and crime-control legislation. Many "get tough" policies, such as the three-strikes movement that swept the country during the 1990s, have been based in large part on the measured ineffectiveness of existing programs to reduce the incidence of repeat offending. Crimes can be categorized into useful groupings, or typologies, that are relevant for particular purposes. The categories within crime typologies, although they serve as useful analytic conventions, sometimes overlap. For example, corporate crime, which is discussed in this topic, is also a type of white-collar crime and can be a kind of property crime. Moreover, corporate crime may be perpetrated with the use of computer technology and so can be considered a form of cybercrime. Crimes against women and the elderly, hate crime, corporate and white-collar crime, organized crime, gun crime, drug crime, high-technology and computer crime, and terrorism are all special forms of crime that this topic discusses. This topic points out that there have been three major shifts in crime rates since the gathering of crime statistics began in earnest in this country. The first occurred during the early 1940s, when crime decreased sharply due to the large number of young men who entered military service during World War II. The second noteworthy shift in offense statistics was a dramatic increase in most forms of crime between 1960 and the early 1990s, brought about in part by population demographics specifically the large numbers of young men in their crime-prone years who had been born following the Second World War. A third major shift came with the significant declines in the rate of most major crimes being reported between 1991 and 2004. A fourth shift in crime trends may be starting now, and some think that recent economic uncertainty, an increased jobless rate among unskilled workers, the growing number of ex-convicts who are back on the streets, and recent growth in the teenage population in this country may lead to sustained increases in crime.

Key Points:**1. Two Major Crime Data Gathering Programs in the United States**

The two major sources of crime statistics are the Federal Bureau of Investigations Uniform Crime Reporting Program (UCR) and the Bureau of Justice Statistics National Crime Victimization Survey (NCVS). Differences between the two sources include:

- Differences in crimes reported: The UCR data include statistics on homicides and incomplete data on arsons; the NCVS does not report homicide or arson data.
- Differences in data-gathering methodology: The UCR reflects specific crimes reported to law enforcement agencies throughout the country; the NCVS reflects the results of interviewer surveys from households touched by crime.
- Differences in scope: The UCR includes only crimes reported; the NCVS includes crimes that were not necessarily reported to the police but that have been uncovered using door-to-door surveys.
- Differences in information: The UCR reports data on crimes cleared and persons arrested; the NCVS does not. However, the NCVS provides greater detail about victims and their characteristics.
- Similarities between the two sources include the fact that they report data on many of the same types of crime.

2. Crime Statistics and Crime Picture in America

Analysis of crime data yields discernible patterns of crime and victimization rates and the demography of both crime victims and criminals. Changes in the frequency or types of crime in specific geographic regions are easily detectable, as are changes in the participation of specific demographic groupings in criminality. Statistics are also able to show how public perceptions of crime are not always realistic and the influence of the media in creating those perceptions. Since its inception in 1930, the UCR Program has enabled researchers to identify major shifts in crime rates. The first was a pronounced reduction in crime rates after the crime-prone young male segment of the population entered military service in large numbers during World War II. The second shift was a dramatic increase as the postwar baby-boom generation entered its teen

yearsthe crime-prone age rangein the 1960s. Another escalation was detected in the 1980s, when drug-related violent crimes increased significantly, peaking about 1991. Through the remainder of the 1990s, major crime rates initially stabilized and then began showing declines in almost all categories.

3. Potential Sources of Error in the Major Reports on Crime

UCR data are flawed for a number of reasons. Because they reflect only crimes reported to law enforcement agencies, they omit crimes that are not reported. For example, a drug dealer is unlikely to file a report if someone steals his or her drug supply. Likewise, the victim of the theft of a \$20 item will probably not file a report because the amount of the deductible on his or her insurance (if he or she has it) likely exceeds the amount of the loss. So-called victimless crimes such as prostitution and gambling are also rarely reported. Further, the hierarchy rule, which mandates that only the most serious crime be reported in cases where multiple crimes are committed, prevents the counting of criminal events known to have occurred. And the rates of sexual assault offenses other than rape are obscured because they are lumped into the assault category rather than being clearly defined as sexually motivated attacks. Some of these problems are being addressed by adoption of the National Incident-Based Reporting System (NIBRS), an update of the UCR Program that is being implemented even as this text goes to press. NCVS data suffer from the potential for receiving false or exaggerated reports, from unintentional inaccuracies resulting from the faulty memories of people who submit reports, from misinterpretation of events by people who make the reports, and by the erroneous assessment of criminality to an event that was genuinely accidental.

It has become commonplace for the news media to report declines in the overall rate of crime in the United States. Such reports, of course, are based on official crime statistics especially those made available through the UCR. Because data on crime rates, however, are based primarily on the reported rates of specific crimes (such as murder, rape, and robbery), any increase or change in the rates of novel forms of crimes not covered by the program will not be visible. Hence, the recent rise in high-technology crimes is not obvious because it does not fall into one of the categories of crime reported under the UCR Program.

Individual reporting categories lend themselves to similar difficulties. An example might be the use of UCR rape data in the medias reporting of sexual criminal activity. Because crimes such as sexual battery, sodomy, oral copulation, and same-sex rape are not included in rape data, a news report based solely on the numbers reflected in the rape category would clearly be misleading.

4. Crime Index and Its Computation

The Crime Index is an inclusive measure of the violent and property crime categories of the UCR, also known as Part I offenses. Originally, seven major offenses—murder, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft—were listed. In 1979 Congress mandated the addition of arson as the eighth reported offense. The index employs the concept of a crime rate (the number of crimes per unit of population) in the computation of its data.

Why is it difficult to add offenses to (or remove them from) the index without lessening its value as a comparative tool? Less-than-ideal comparisons may result from the inclusion of new offenses or removal of previously reported offenses. In the case of additions, this would cause uncertainty regarding whether occurrences of the newly categorized offense were previously reported in another crime category, thereby skewing comparisons of data in the former reporting category before and after the realignment. For obvious reasons, the removal of a crime category would negate post-removal comparisons.

5. Crime Statistics and the Use of Crime Rates Instead Of Simple Numerical Tabulation Improve the Reporting Of Crime Data

Expressing crime statistics as rates permits comparisons among areas, across time, and among populations of widely varied sizes. Pure numbers can be grossly misleading. In a city with a population of 7 million, 600 murders would equate to a murder rate of 8.57 per 100,000. If 30 murders occur in a city with a population of 300,000, the rate would be 10 per 100,000.

Observers might fixate on the huge number of murders in the larger city (600) and inaccurately

believe the city to be more dangerous than the smaller city. In fact, the smaller city, with its higher rate per 100,000, presents a greater risk of being murdered.

This ability to evaluate crime data on a universal scale clarifies the true meaning of the hard numbers, defuses emotional responses to large numbers, and enables the researcher to interpret more accurately what those numbers really mean.

6. Two Major Crime Categories in Part I offenses in the Uniform Crime Reports

Part I offenses are categorized as violent (or personal) crimes and property crimes. Certain property crimes often include a violent aspect. Examples include:

- A motor vehicle theft by carjacking that results in the injury or death of the vehicles owner.
- A burglary that involves a violent confrontation between the property owner and the burglar.
- An arson that results in the injury or death of a person.
- A larceny by purse snatching that results in injury to the purses owner.

The hierarchy rule mandates reporting only the most serious crime in cases where multiple crimes are committed. For example, if the criminal event included kidnapping, rape, and murder, only the murder would be recorded. Although the original intent of the hierarchy rule has been obscured, it was likely created as an accommodation to the manual crime-reporting processes that existed in the 1930s, when the UCR was created.

What do you think of the modifications in the hierarchy rule that are occurring today under the National Incident-Based Reporting System?

The NIBRS mandate to report all crimes committed during a criminal event will improve the accuracy of the crime count, but at the cost of reducing the comparability of pre- and post-NIBRS data.

7. Clearance Rate

When a crime has been cleared, it has been solved. A crime can be cleared by arrest or by exceptional circumstances (as when the suspect has been killed during the commission of the crime, when the suspect was not arrested but later died, or when the suspect is known but has fled U.S. jurisdiction and is likely to be un-arrestable as a result).

8. National Incident-Based Reporting System

The National Incident-Based Reporting System is an incident-based reporting system that will supersede the traditional data provided by the FBI's Uniform Crime Reports. Under the new enhanced system, law enforcement agencies will provide detailed information about the crime and arrest activities at the incident level. The traditional UCR Program was summary based, and NIBRS is incident driven. The NIBRS also replaces the old Part I and Part II offenses with 22 general offenses. NIBRS also eliminates the need for the hierarchy rule.

9. Special Categories of Crime

The chapter discusses several special categories of crime, including crime against women, crime against the elderly, hate crime, corporate and white-collar crime, organized crime, gun crime, drug crime, high-technology and computer crime, and terrorism. These categories are important because they provide us with additional ways to think about crime and how the criminal justice system responds to crime. The importance of these special categories is also illustrated by thinking of them as crime typologies. Various typologies are used to describe the characteristics of criminal offending. Creating such special categories increases the importance of these types of crime and provides a common ground for scholars and policymakers to discuss them.

Topic : The Search For Causes**Topic Objective:**

At the end of this topic student would be able to:

- List the various categories of theoretical approaches used to explain crime.
- Describe the basic features of biological theories of crime causation.
- Describe the basic features of psychological explanations for crime.
- Describe the basic features of sociological theories of crime causation.
- Identify two emergent theories of crime causation.

Definition/Overview:

This topic describes theoretical explanations for crime. Most of the perspectives discussed are grounded in biology, psychology, or sociology. Biological theories posit a genetic or a physiological basis for deviant and criminal behavior. The notion of a "weak" gene that might predispose certain individuals toward criminal activity has recently been expanded to include the impact of environmental contaminants, poor nutrition, and food additives on behavior. Studies of fraternal twins and chromosome structure have helped to lead biological theories into the modern day.

Psychological explanations of crime are individualistic. Some psychoanalytical theories see offenders as sick; other psychological theories claim merely that criminal behavior is a type of conditioned response. The stimulus-response model depicts criminal behavior as the consequence of a conditioning process that extends over the entire life span of an individual. Sociological theories, which hold that the individual is a product of the environment, constitute today's perspective of choice. These theories emphasize the role of social structure, inequality, and socialization in generating criminality. The danger of most sociological approaches, however, is that they tend to deny the significance of any influences beyond those that are mediated through social interaction.

Key Points:**1. Various Categories of Theoretical Approaches to Explain Crime**

The eight general categories of criminological theories presented in this chapter include Classical, Biological, Psychobiological, Psychological, Sociological, Social Process, Conflict, and Emergent. An integrated perspective that recognizes that human behavior results from a mix of biology, mental processes, and acquired traits holds much future promise. As a consequence, our understanding of crime causation is headed toward a unified theory of conduct drawn on many explanations to interpret the whole range of human behavior including crime.

2. Basic Features of Biological Theories of Crime Causation

Following are the basic features

- Human behavior, including criminal tendencies, is genetically based.
- A penchant for crime may be inherited.
- Criminals and deviants are in more primitive developmental stages in the evolutionary process than most people.

2.1 Shortcomings

It suggests the need for extreme social policies, such as the eugenics movement.

2.2 Explanatory Power

There is little empirical support for biological theories of crime causation, and much of the early research on these theories was poorly designed.

3. Basic Features of Psychological Explanations for Crime

Following are the basic features:

- The individual is the primary unit of analysis.
- Personality is the major motivational element in individuals.
- Crimes result from inappropriately conditioned behavior.
- Defective or abnormal mental processes may have a variety of causes.

3.1 Shortcomings

It is dependent on the ability to predict future behavior based on past behavior, with allowance for the effects of therapeutic intervention an inexact science, at best.

3.2 Explanatory Power

These theories tend to be individualistic. Profiling is incredibly challenging, but the very best profilers can reliably describe an offenders social and psychological characteristics. It is, however, very difficult to predict the future dangerousness of an individual.

4. Basic Features of Sociological Theories of Crime Causation

Following are the basic features

- Social groups, social institutions, the arrangements of society, and social roles all provide the proper focus for criminological study.
- Group dynamics, group organization, and subgroup relationships form the causal nexus out of which crime develops.
- The structure of society and its relative degree of organization or disorganization are important factors that contribute to the prevalence of criminal behavior.

4.1 Shortcomings

It may lead to expensive but sometimes ineffective social programs intended to eliminate crime.

4.2 Explanatory Power

Most contemporary analysts, however, would probably select sociological explanations of crime as having the most explanatory power because the sociological perspective recognizes the influence of culture and environment on both personality and individual choices.

5. Emergent Theories

Emergent theories are new, developing criminological theories that challenge and/or expand extant theories that have dominated explanations of criminal behavior. Feminist criminology and constitutive criminology are two examples of emergent theories.

Topic : Criminal Law

Topic Objective:

At the end of this topic student would be able to:

- Explain the impact of common law on contemporary American criminal justice.
- Discuss the nature of the rule of law, and describe its purpose in Western democracies.
- Identify the various types of law, and explain the purpose of each.
- List the five categories of criminal law violations.
- List the eight general features of crime.
- Explain the concept of corpus delicti.
- Discuss the four broad categories of criminal defenses that our legal system recognizes.

- Explain the legal concept of insanity, and distinguish it from psychiatric explanations of mental illness.

Definition/Overview:

Law is rules of conduct, usually found enacted in the form of statutes that regulate relationships between people and also between parties. Hence, one of the primary functions of the law is the maintenance of public order. Generally speaking, laws reflect the values held by the society that created them, and legal systems throughout the world reflect the experience of the society of which they are a part. The emphasis placed by any law on individual rights, personal property, and criminal reformation and punishment can tell us much about the cultural and philosophical basis of the society that created it. Imagine our society without laws. How would order be maintained? How would individuals be protected from harm? How would society be protected? Law provides these protections, insulating society from mass chaos. Topic 4 discusses many areas of law including the nature and purpose of law, the rule of law, types of law, and general categories of crime.

Topic 4 explains why we have laws. Laws are needed to prevent the victimization of innocent people. Laws also ensure that the philosophical, moral, and economic perspectives of those who created the laws are protected. They also uphold established patterns of social privilege and sustain existing power relationships. Laws can also promote change in society or help society adapt to change. For example, new laws have been created in response to the computer revolution. Many criminal laws were created to adapt to rapid social and technological changes.

The text also discusses different types of law. Common law is the traditional body of unwritten historical precedents created from everyday social customs, rules, and practice. Criminal law, which is the focus of this topic, is concerned with offenses against society. The criminal justice processing machinery operates according to criminal law. Topic 4 also distinguishes criminal law from civil law. Civil law provides legal guidance regulating the relationships between individuals. Sometimes criminal and civil cases overlap. An individual could be charged under criminal law but also sued in civil court by the victim. Case law involves the decisions of courts

that provide guiding principles to future decisions, and administrative law is the body of law that regulates industry, business, and individuals. Topic 4 also provides a discussion of general categories of crime. Specifically, the text discusses five categories of violation: misdemeanors, felonies, offenses, treason and espionage, and inchoate offenses.

Key Points:

1. Common Law and Its Impact on Contemporary American Criminal Justice

Common law is a body of unwritten judicial opinion that is based on customary social practices of Anglo-Saxon society during the middle Ages. It forms the basis of much of our modern statutory and case law and has often been called the major source of modern criminal law. Although largely supplanted in all U.S. jurisdictions by statutory (written) law, common law principles still serve as powerful interpreters of legal issues that arise in state codes and the dictates of state law.

2. Rule of Law

The rule of law is essentially the belief that an orderly society must be governed by established principles and codes that are applied uniformly and fairly to all of its members. The rule of law is central to Western democracies. It allows people to speak their mind, stand up for what they think is right, organize to protest government, and live free without the threat of lawlessness. The rule of law established limits to all types of behavior, and it is a way to communicate expectations about how one should behave in a democracy. What it means to say nobody is above the law is that everybody, including those who write laws (politicians) and those who enforce it (police officers and the like), must abide by the rule of law.

- Criminal law is the rules and regulations that define what behaviors are criminal and specifies punishments. Such offenses are committed against society.

- Civil law focuses on regulating relationships between parties. The focus of civil law is on noncriminal relationships.
- Administrative law focuses on the regulations created by government to control businesses, industries, and individuals.
- Case law provides a guide to court decision making because it includes the body of judicial precedent.
- Procedural law regulates the behavior of individuals (that is, police officers, prosecutors, and the like) responsible for enforcing the substantive law.

3. Five Categories of Criminal Law Violations

Following are the five categories

- Felonies are serious crimes, such as murder and rape. Offenders convicted of felonies can be incarcerated or sentenced to death and will lose certain privileges.
- Misdemeanors are relatively minor crimes, such as petty theft. Generally, misdemeanors are punishable by a year or less in prison.
- Offenses are minor violations of the law, such as spitting on the sidewalk and littering. Offenders are usually ticketed.
- Treason and espionage are considered among the most serious felonies. Treason occurs when a U.S. citizen helps a foreign government overthrow, make war against, or injure the United States. Espionage focuses on the gathering, transmitting, and losing of information related to national defense.
- Inchoate offenses are offenses not yet completed, such as conspiracy or an attempt. Inchoate offenses can still be serious (attempted murder), but they are less serious because the offense was not completed.

4. Eight General Features of Crime

Following are the eight general features of crime

- Actus Reus The guilty act.

- **Mens Rea**The guilty mind.
- **Concurrence**The coexistence of (1) an act in violation of the law and (2) a culpable mental state.
- **Causation**The concurrence of mind and act must produce harm.
- **Harm**The harm caused by the crime.
- **Legality**Refers to the existence of a law that prohibits or mandates an action.
- **Punishment**The sanctions imposed for violating the law.
- **Necessary Attendant Circumstances**The facts surrounding an event.

The three conjoined elements that comprise the legal essence of the concept of crime are (1) the criminal act, (2) a culpable mental state, and (3) a concurrence of the two.

5. Corpus Delicti

Corpus delicti, a Latin term that means body of the crime, is the set of facts that show that a crime has occurred. The term does not refer to the human remains of the victim of a homicide. The corpus delicti of an offense consists of two aspects: (1) that a certain result has been produced and (2) that a person is criminally responsible for its production. Elements of the crime are the essential features of that crime as established by law or statute. Those elements specify exactly what conditions are necessary for a person to be charged in a given instance of criminal activity.

6. Four Broad Categories of Criminal Defenses

The four categories of criminal defense recognized include alibi, justification, excuse, and procedural defense. An alibi means that the defendant was somewhere else at the time of the crime. When a defendant offers a justification, he or she admits to the wrong but argues that it was necessary to avoid a greater evil. A defendant offering an excuse claims that a personal condition or circumstance was such that he or she should not be held accountable under the law. A defendant who makes a procedural defense claims that he or she was discriminated against in some way or appropriate procedures were not followed. Legal insanity meets the needs of the judiciary and is used to determine guilt and innocence. Psychiatry is concerned with the

diagnosis and treatment of mental illness. Medical conceptions do not always fit into the legal categories to handle cases involving the mentally ill. Arguments supporting the insanity defense often cite the need to protect those who cannot protect themselves. Proponents often liken the mentally disabled to a child because, like a child, they lack the capacity for making sound, rational decisions or for controlling their actions. Because the behavior of such persons does not result from reasoned choice, they say, it is behavior for which they simply cannot be held culpable.

7. Insanity Defense

Opponents of the insanity defense discount the notion that anyone can be relieved of responsibility for his or her actions on the basis of an inability to make right choices. They often argue that, right choice or not, the actions of the mentally disabled are based on choices they themselves made and for which they should be held responsible. Opponents sometimes present the dubious argument that since the mentally disabled realize benefits from their right choices, it is only fair that they be held responsible for their wrong choices as well. Many believe that the mechanisms by which insanity is determined are flawed. There is a sense of frustration engendered when one set of psychiatrists (the prosecutions) evaluates an offender as mentally competent while another set (the defenses) finds the same offender mentally impaired. The uncertainty caused by such conflicts leads to overwhelming mistrust of the process itself. Additional mistrust results from the fact that the process of evaluating an individual's mental state is an inexact science that can be manipulated. The fact that practitioners can be and have been fooled into making incorrect diagnoses further diminishes public confidence in the system's ability to achieve a just solution. Any modification of the rules for determining an offender's mental state would have to meet due process requirements.

Given that due process affords the opportunity to challenge any claims made against the accused, any new rules would have to include comparable provisions. Consequently, the form of such rules would likely be similar to the existing forms.

The rule of law, the principle that an orderly society must be governed by established principles and known codes that are applied uniformly and fairly to all of its members, is regarded as a vital underpinning of fairness in modern democratic societies. The rule of law holds that no one is above the law, even those who make it. This topic identified various types of law, including criminal law, civil law, administrative law, case law, and procedural law. It is concerned primarily, however, with criminal law, which is the form of the law that defines and specifies punishments for offenses of a public nature or for wrongs committed against the state or the society. American criminal law generally distinguishes between serious crimes (felonies) and those that are less grave (misdemeanors). Guilt can be demonstrated, and criminal offenders convicted, only if all of the statutory elements of a particular crime can be proved in court. Our legal system recognizes a number of defenses to a criminal charge. Primary among them are justifications and excuses. One form of excuse, the insanity defense, has been widely criticized recently, and efforts to reduce its application have been under way for more than a decade.

- In Section 2 of this course you will cover these topics:
 - Policing: History And Structure
 - Policing: Purpose And Organization
 - Policing: Legal Aspects
 - Policing: Issues And Challenges

Topic : Policing: History And Structure

Topic Objective:

At the end of this topic student would be able to:

- Summarize the historical development of policing in America, including the impact of the Prohibition era on American policing.

- Describe the nature of scientific police studies, and explain the significance they hold for law enforcement practice today.
- Describe the three major levels of public law enforcement in the United States today.
- Describe the nature and extent of private protective services in the United States today, and describe the role these services might play in the future.
- Explain the relationship between private security and public policing in America today.

Definition/Overview:

Topic 5 begins with a discussion of the historical development of police departments in England and America. The text covers the historical evolution of policing in England because of similarities in its development to historical changes in American policing. An organized police response to social problems in England did not occur until the 1700s. Prior to that time, a posse, led by a shire reeve or comes stabuli, would respond to assist victims. The English police started to evolve in the 1700s when Henry Fielding became the magistrate of the Bow Street region of London. In 1829, under the guidance of Sir Robert Peel, the New Police (or the Metropolitan Police) was formed; it has been acknowledged as the world's first modern police force.

Characteristics of the New Police force can still be found in English and American police forces. For example, the New Police operated under the belief that it was possible to discourage crime by patrolling the streets; the New Police wore uniforms to make themselves accessible to the public; and they structured their departments much the same as a military organization.

American policing evolved similarly, and early police departments, such as those organized in New York City, Boston, and Cincinnati, studied Peels New Police when deciding structure and police response. However, police departments in the United States also addressed the special and unique concerns of the country, such as managing the Western frontier. American police departments have evolved considerably over the years, relying recently on scientific research when deciding how to respond to crime most effectively. The text discusses important research studies, such as the Kansas City Preventive Patrol Experiment, that have had a tremendous impact on the current structure and philosophy of police departments. This experiment, conducted in the mid-1970s, tested (among other things) the effectiveness of preventive patrol in

detering crime and making citizens feel safe. The results from this study indicate that the number of officers on preventive patrol does not have a deterrent effect on preventable crimes and does not make citizens feel safe. These findings have forced police departments to alter how they use police officers on patrol and employ such innovative police strategies as directed patrol and split-force patrol.

Topic 5 also provides a discussion of the decentralized structure of policing in the United States, highlighting differences among federal, state, local, and privately owned law enforcement agencies. Federal law enforcement agencies are responsible for enforcing federal laws. Although many agencies enforce federal law, the text describes in detail the best known: the Federal Bureau of Investigation. Topic 5 also discusses the responsibilities of state and local law enforcement agencies. State police agencies, whether centralized or decentralized, are responsible for patrolling state highways and conducting statewide criminal investigations. Officers who work for local law enforcement agencies have a more diverse job description than federal and state officers do. For example, the text discusses the diverse responsibilities of officers who work for the New York City Police Department. It also discusses the wide diversity in size and structure of local law enforcement agencies. Topic 5 concludes with a discussion of the growing private law enforcement industry. Indeed, the number of individuals employed in private security is higher than that in the other levels combined. Although the primary concern of the textbook is how local, state, and federal police respond to crime, discussion of private policing is important because of the growing influence of private security in criminal justice and the overlap of public and private security agencies.

Key Points:

1. The Historical Development of Policing In America

The rise of policing in America was shaped by many unique factors, including the huge expanse of unchartered Western territory, wealth, and a widely dispersed population. One of the major

factors shaping American policing was the frontier. Since it was unsettled and wild, law and order was enforced primarily by citizen posses and vigilante groups. More structured law enforcement occurred in larger cities. Policing in these cities closely resembled the British model, paramilitary organizational structure, wearing police uniforms, and focusing on the prevention of crime. As society changed culturally and technologically, so did American policing. Americas experiment with Prohibition was a complete failure, and it impacted policing by creating opportunities for corruption and graft. The Wickersham Commission, after reviewing problems with law enforcement, established guidelines that have since impacted many aspects of law enforcement.

2. Scientific Police Management

Scientific police management is the use of social scientific techniques to study policing for the purpose of increasing effectiveness, reducing the frequency of citizen complaints, and enhancing the efficient use of available resources. Police work is replete with assumptions about what works effectively and what doesnt. Classic scientific studies designed to validate or invalidate those assumptions include the 1974 Kansas City Preventive Patrol Experiment, which questioned the effectiveness of routine police patrol; the 1994 Kansas City Gun Experiment, which sought to determine if vigorous gun law enforcement would reduce gun-related crime; the 1984 Minneapolis study of domestic violence, which attempted to show the impact of arrest, versus other dispositions, on the reduction of crime; and the Newport News, Virginia, test, conducted during the 1980s, that compared traditional incident-driven policing to a new approach called problem-oriented policing. Potential assumptions about police work worth examining include the effects of higher minimum education standards on police violence, the effects of higher minimum education standards on police corruption, and studies related to the effectiveness of female officers.

3. Three Levels of Law Enforcement

Law enforcement in the United States exists at the federal, state, and local levels. Legislative and jurisdictional limitations on the investigatory responsibilities of particular agencies, and the technical investigatory specialization of other agencies, serve to explain the existence of the widely varied types of law enforcement agencies. American law enforcement professionals,

functioning in what some call the most complex organization in the world, are rightfully proud of their performance in accomplishing an extraordinarily difficult task. Their achievements are attributable to the routinely competent performance of mundane, often thankless, and sometimes dangerous duties by a core group of dedicated and courageous men and women. In an environment of high stress, swirling emotions, and ever-changing legal, tactical, and administrative rules, they protect us with selflessness and commitment of the highest order. But it is an undeniable reality that the complex organization in which they, on the whole, perform so admirably can also be a confusing miasma of jurisdictional disputes, competition for limited funding, political maneuvering and manipulation, stifling personal and organizational ego contests, impenetrable bureaucracy, administrative inertia, and duplicated effort resulting in extraordinary inefficiency. Hence, some suggest that a unified national police force, which would take the place of existing multilevel agencies, would solve many of the problems that exist in American policing today.

4. The Nature and Extent of Private Protective Services in the United States Today

Private protective services have had an incredible impact on law enforcement and safety in America. More people are employed in private security than in all local, state, and federal law enforcement agencies combined. It is estimated that there are nearly 2 million people working in private security and probably about 1 million working in public law enforcement. This gap will increase, as it is anticipated that the number of people employed in private security will increase at a faster rate compared to the number in public law enforcement. Private police services will likely continue to expand as organizations and citizens seek to increase their sense of security in what they perceive to be an increasingly dangerous world. Factors that can ensure high-quality delivery of private police services include thorough screening of applicants, standardized training in essential technical skills, professional certification processes, and state licensure.

5. Relationship between Private Security and Public Policing In America Today

The growth of the private security industry has certainly caused friction with public law enforcement. Sources of friction include the erosion of public law enforcements turf, moonlighting by public officers in private security, and different relationships and case priorities when interacting with a prosecutors office. This relationship is constantly evolving, with some

scholars noting that the distinction is increasingly meaningless, and there is a general recognition that both can benefit from cooperation. Today's police departments owe a considerable historical legacy to Sir Robert Peel and the London Metropolitan Police Force. The "Met," begun in 1829 under Peel's leadership, was the world's first modern police force. It was organized around the practice of preventive patrol by uniformed officers.

Early American law enforcement efforts were based to some degree on the British experience, but the unique character of the American frontier led to the growth of a decentralized form of policing throughout the United States. American police agencies function to enforce the statutes created by law-making bodies, and differing types and levels of legislative authority are reflected in the diversity of police forces in our country today. Consequently, American policing presents a complex picture that is structured along federal, state, and local lines. Each federal agency empowered by Congress to enforce specific statutes has its own enforcement arm, and tasks deemed especially significant by state legislatures, such as patrol of the highways, have resulted in the creation of specialized law enforcement agencies under state jurisdiction. For many of today's local law enforcement agencies, patrol retains a central role with investigation, interrogation, and numerous support roles rounding out an increasingly specialized profession. Studies sponsored by the Police Foundation and the Law Enforcement Assistance Administration during the 1970s and 1980s brought scientific scrutiny to bear on many of the guiding assumptions of police work. One of the most important early scientific studies of policing was the Kansas City preventive patrol experiment, which brought into question long-standing assumptions about the effectiveness of routine police patrol. The contemporary notion of evidence-based policing represents a push to apply scientific studies of policing to everyday police practice. Private policing, represented by the recent tremendous growth of for-hire security agencies, adds another dimension to American policing. Private security is now undergoing many of the changes that have already occurred in other law enforcement areas. Heightened training requirements, legislative regulation, court-mandated changes, and college-level educational programs in private security are all leading to increased professionalism within the security profession. Recognizing the pervasiveness of today's private security operations, many municipal departments have begun concerted efforts to involve security organizations in their crime-detection and crime-prevention efforts.

Topic : Policing: Purpose And Organization**Topic Objective:**

At the end of this topic student would be able to:

- Explain the basic purposes of policing in democratic societies.
- List and discuss the five core operational strategies of today's police departments.
- Define the term police management, and describe the different types of organizational structures typical of American police departments.
- Identify the three styles of policing, and discuss differences in these approaches.
- Describe community policing, and explain how it differs from traditional policing.
- Describe the changed role of American police in the post-9/11 environment.
- Explain police discretion and how it affects the practice of contemporary law enforcement.
- Demonstrate why professionalism is important in policing today.
- Identify some of the issues related to ethnic and gender diversity in policing, and suggest ways of addressing them.

Definition/Overview:

Topic 6 discusses several areas of concern to the police organization. These areas include the police mission, operational strategies, managing police departments, policing styles, discretion and the officer, professionalism and ethics, and ethnic and gender diversity in policing.

Topic 6 begins with a discussion of the police mission. In general, the basic purposes of policing include enforcing the law, apprehending offenders, preventing crime, preserving the peace, and providing services. This section also discusses how terrorism has impacted the police mission of federal, state, and local law enforcement agencies. The mission of policing directly shapes the operational strategies departments use to accomplish their goals. Topic 6 discusses the five core operational strategies of police departments: preventive patrol, routine incident response,

emergency response, criminal investigation, and problem solving. These operational strategies highlight how police work in a democratic society. Importantly, this section also highlights the objectives, performance standards, and processes involved for each operational strategy.

Topic 6 also discusses police management. Police management focuses on the administrative activities that control, direct, and coordinate police personnel, resources, and activities. This section discusses the general structure of police organizations and highlights the chain of command. Police departments have unique policing styles formed in response to community and organizational factors. Three types of policing styles, developed by James Q. Wilson, are discussed in Topic 6. First, police officers employed in watchman style departments are most concerned with maintaining order. These officers possess a considerable amount of discretion to resolve situations. Second, police officers in legalistic style departments are expected to enforce the letter of the law, meaning that their discretion to use a nonenforcement response is limited. Moreover, these officers are likely to ignore other disruptive behaviors. Third, officers in a service style department are most concerned with helping citizens rather than strictly applying the letter of the law. These officers would be familiar with community resources and use these resources to help solve community and individual problems. Many police departments are moving to the service style, using what are popularly known as community policing strategies. Community policing is a strategy that calls for police departments to develop community relationships and solicit citizen assistance in solving problems. The current movement toward community policing has its roots in the policecommunity relations programs advocated in the 1960s, as well as in the team policing ideas of the 1970s. This topic in the text discusses several examples of community-policing programs, such as Houston's DART program, Chicago's Alternative Policing Strategy, and Baltimore's Project Cope.

Topic 6 also introduces the idea of police discretion. Despite the influence of departmental styles, individual officers possess an opportunity to make choices when enforcing the law. When working the streets, officers are not directly supervised by superiors, providing them with discretion to informally or formally resolve incidents. The text describes potential factors that

might influence the ways officers use discretion, such as the background of the officer, characteristics of the suspect, community interest, and pressures from the victim. The author discusses key issues related to resolving many of the issues facing police departments in the section on professionalism and ethics. Doing accreditation of police departments, raising educational standards, and improving the recruitment and selection of officers are changes being made to address problem areas of policing.

Key Points:

1. Basic Purposes of Policing In Democratic Societies

The basic purposes of policing are to enforce and support laws, investigate crimes and apprehend offenders, prevent crime, help ensure domestic peace and tranquility, and provide the community with needed enforcement-related services. These purposes overlap in several ways. For example, police officers investigate crimes and apprehend offenders, which enforces and supports the laws of a society. However, these purposes can be inconsistent as well. In an effort to prevent crime, police officers might use overly aggressive patrol strategies, which could push the community away from the police, and the end result might be less domestic peace.

2. Five Core Operational Strategies That Police Departments Use Today

- Preventive patrol
- Routine incident response
- Emergency response
- Criminal investigation
- Problem solving

3. Police Management and the Different Types of Organizational Structures

Police management includes the administrative activities of controlling, directing, and coordinating police personnel, resources, and activities in the service of preventing crime, apprehending criminals, recovering stolen property, and performing regulatory and helping services. The two basic organizational types associated with police agencies are line and staff. Line operations focus on field and supervisory activities related to daily police work. Staff operations include support roles, such as police administration.

4. Three Styles of Policing

The three styles of policing are: watchman, legalistic, and service. The watchman style is typical of lower-class communities, and the primary concern is maintaining order. Officers working in such departments have considerable discretion in deciding when and how to enforce the law. The legalistic style is marked by enforcing the precise letter of the law. Officers in these departments have limited discretion and generally ignore order maintenance situations unless the criminal law was broken. The service style focuses on a concern with helping rather than enforcing the law. Law enforcement agencies employ operational strategies to meet their goals. This chapter presents five core strategies: preventive patrol, routine incident response, emergency response, criminal investigation, and problem solving. Support, an ancillary operational strategy, is also discussed. Police management and the organizational structure of law enforcement agencies provide two additional dimensions of police administration. Distinctions between line and staff operations are critical to understanding agency organization.

Three policing styles are identified in this topic: (1) the watchman style, (2) the legalistic style, and (3) the service style. The style of policing that characterizes a community tends to flow from the lifestyles of those who live there. While the watchman style of policing, with its emphasis on order maintenance, was widespread during the mid-twentieth century, the service style, which is embodied in the community policing model, is commonplace today. Community policing is built on the principle that police departments and the communities they serve can work together effectively as partners in the fight against crime. American policing continues to evolve, and the contemporary emphasis on terrorism prevention alongside the need for a rapid response to

threats of terrorism has led to what some see as a new era of policing to secure the homeland. Homeland security policing builds upon the established framework of community policing for the purpose of intelligence gathering to prevent terrorism. The jury is still out as to whether the nature of policing will change dramatically in this new era or whether community policing will prevail as the preferred philosophy with relatively minor changes to fight terrorism at home.

5. Community Policing

Community policing focuses on a collaborative effort between the police and all elements of the community to identify problems and solutions in responding to crime and disorder. There are many ways that community policing differs from traditional policing. First, community-policing agencies are willing to work with the public and other community agencies to solve problems. In contrast, the relationship between citizens and other community agencies and the police may involve conflict in traditional policing. Second, community policing focuses on solving problems and traditional policing focuses on solving crimes. Third, community policing focuses on all types of problems, even minor incidents, and traditional policing tends to consider non-crime-related calls for service as low-priority items. Finally, community policing is accountable to the community, and traditional policing is accountable to the law. Community policing certainly has the potential to improve policing services in the United States, but police organizations are very resistant to change. The philosophy that underlies community policing is promising. Police agencies should work with the community and community agencies, coordinating priorities and sharing responsibilities for community safety. If a department fully commits to community policing, and the community commits to the collaboration, policing services would certainly improve.

6. New Responsibilities that American Police Agencies Assumed Since the 9/11 Terrorist Attacks

American police agencies have assumed new responsibilities since the 9/11 attacks in the areas of terrorism prevention and response. While the core mission of American police departments has not changed, law enforcement agencies at all levels now devote an increased amount of time

and other resources to preparing for possible terrorist attacks and to gathering the intelligence necessary to thwart them. In particular, local police departments play an especially important role in responding to the challenges of terrorism. Not only must they help prevent attacks, but they must respond quickly when attacks occur, offering critical evacuation, emergency medical, and security services to help stabilize communities following an incident. Community-policing programs have been adapted to the needs of terrorism prevention because community policing provides a natural conduit for information gathering and the development of counterterrorism intelligence.

7. Police Discretion

Police discretion is the opportunity for law enforcement officers to exercise choice in their daily activities. Discretion is essential to policing in America. Because police agencies receive too many calls and departmental priorities are influenced by a number of external factors, flexibility in police response is critical to police legitimacy. If, however, police discretion results in unpredictable and discriminatory practices, such as racial profiling, then the reputation of police departments and the policing profession is damaged.

8. Police Professionalism

Police professionalism is the increasing formalization of police work and the accompanying rise in public acceptance of the police. Police action is generally professional when it is rational, fair, and unbiased. Professionalism is important in policing because it legitimizes the police role in society. A commitment to ethical guidelines, professional associations, and accreditation sends a clear message about the quality of a profession. The two critical issues are recruiting of women and minorities to policing and increasing the number of women and minorities in leadership positions. These problems can be addressed by involving underrepresented groups in departmental affirmative action and long-term planning programs, encouraging an open promotion system, and conducting periodic audits to ensure that female officers are not being underutilized. The face of policing in America was forever changed by the events of September

11, 2001. Local law enforcement agencies, many of which saw community protection and peacekeeping as their primary roles, are now being called upon to protect against potential terrorist threats with international roots. Even with this new focus on terrorism prevention and response, however, the fundamental mission of American policing remains essentially unchanged from what it has always been. Law enforcement agencies are charged with (1) enforcing the law (especially the criminal law), (2) investigating crimes and apprehending offenders, (3) preventing crime, (4) helping to ensure domestic peace and tranquility, and (5) providing the community with needed enforcement-related services.

Topic : Policing: Legal Aspects

Topic Objective:

At the end of this topic student would be able to:

- Explain how the Bill of Rights and democratically inspired legal restraints on the police help ensure personal freedoms in our society.
- Describe the nature of due process and the specific constitutional amendments on which due process guarantees are based.
- Explain the importance of the exclusionary rule and the fruit of the poisoned tree doctrine.
- Define arrest, and describe how popular depictions of the arrest process may not be consistent with legal understandings of the term.
- Describe the circumstances under which police officers may search vehicles and the extent to which such searches are permissible.
- Explain how the need to ensure public safety justifies certain suspicionless searches.
- Recite the Miranda warnings, and describe in detail recent U.S. Supreme Court cases that have affected Miranda warning requirements.
- Describe the nature of electronic evidence, and explain how first-on-the-scene law enforcement personnel should handle it.

Definition/Overview:

Topic 7 examines the legal constraints on police behavior. It discusses how law enforcement agents are constrained by procedural law, highlighting the legal rules that affect the search and seizure of evidence, arrest, and interrogation. When conducting investigations, law enforcement officers rely heavily on physical evidence to substantiate criminal charges. The legal constraints on evidence collection are found in the Fourth Amendment. In general, law enforcement agents get a warrant to search for and seize evidence when they can demonstrate probable cause to a neutral magistrate (a judge). If probable cause were later found to have been lacking, any items seized would be excluded as evidence. *Weeks v. United States* established the exclusionary rule for federal cases; *Mapp v. Ohio* made this rule applicable to the states. There are many exceptions to the requirement that law enforcement agents obtain a warrant before collecting evidence, although most of them require that the agents establish probable cause. For example, if a police officer is in a place where he or she is legally allowed to be, then that officer can seize as evidence any contraband in plain view, although he or she could not move an object to put it into plain view. Another exception is a search incident to an arrest. When arresting a suspect, law enforcement agents can search the person and the area in the immediate control of that person (*Chimel v. California*) without a warrant. Other exceptions include emergencies, stop-and-frisk situations, concern for public safety, vehicle searches, and consent searches (see Table 73 for a complete list of established exceptions to the exclusionary rule).

The probable cause standard also applies to the law of arrest. Law enforcement agents arrest, or obtain a warrant to arrest, a suspect when the facts cause a reasonable person to believe that a specific individual has committed a crime. There are, however, instances in which police officers might question someone they suspect of committing a crime but may not make an arrest. For example, a police officer might stop to question a suspicious-looking individual and do a quick pat-down search for weapons (*Terry v. Ohio*). If the citizen is able to dispel the concerns of the officer, then that person is free to leave.

Topic 7 concludes with a discussion of interrogation. Law enforcement agents can, and do, question citizens suspected of committing crime, but they cannot conduct an interrogation before ensuring that the suspect is protected against self-incrimination. Courts have prohibited physically coercive techniques when questioning suspects (*Brown v. Mississippi*). The privilege against self-incrimination does not prevent officers from using psychologically coercive techniques to elicit confessions as long as the suspect is informed of his or her rights prior to custodial interrogation (*Miranda v. Arizona*). This rights include:

- You have the right to remain silent.
- Anything you say can be used against you in a court of law.
- You have the right to talk to an attorney and have a lawyer present when you are being questioned.
- If you want a lawyer and cannot afford one, one will be appointed to you.
- If you answer questions with a lawyer, you have the right to stop answering questions at any time.

The Fourth and Fifth Amendments mandate the two most significant and controversial procedural constraints on police behavior. These constraints have evolved considerably over the last 40 years because of changes in the ideological makeup of the Supreme Court. For example, evidence obtained based on an invalid warrant can still be used when the officer was acting in good faith (*United States v. Leon*). Law enforcement agents can question suspects without reading them their *Miranda* rights when public safety is at risk (*New York v. Quarles*). Legal issues have evolved in response to technological changes in society. For example, police officers can monitor telephone conversations but must make every effort to monitor only those conversations related to the criminal activity under investigation. The book also discusses how the USA Patriot Act of 2001 made it easier for law enforcement to intercept many forms of electronic communication.

Key Points:**1. Bill Of Rights and Democratically Inspired Legal Restraints on the Police**

The Bill of Rights and legal restraints show that the police are not above the law. Police officers have to collect evidence to arrest suspects, but they must do so within the boundaries of the Fourth Amendment. Suspects may have to be released if police officers do not follow the law. Officers cannot arrest suspects without cause, thus limiting the likelihood that police use arrest to coerce innocent citizens. The Fifth Amendment constrains police interrogation procedures. Police are not able to use physical force, and the use of other types of coercion is also limited. These rights are central to democracy, and without them personal freedoms would suffer greatly.

2. Due Process

Due process generally focuses on the processes in place to protect individual rights. These rights are guaranteed by the Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution. It is difficult to fairly balance due process with the risk of criminal activity. If due process rights are increased, and additional procedural constraints are put in place limiting police investigation procedures, then it is likely that criminal activity will increase. If due process rights are limited, then criminal activity might decrease. The attempt to balance these positions provides an explanation for the constant state of flux of due process guarantees.

3. Exclusionary Rule

The exclusionary rule is the understanding, based on Supreme Court precedent, that incriminating information must be seized according to constitutional specifications of due process or it will not be allowed as evidence in a criminal trial. The fruit of the poisoned tree doctrine is a legal principle that excludes from introduction at trial later any evidence developed as a result of an illegal search or seizure. The exclusionary rule and the fruit of the poisoned tree doctrine are important because they essentially punish the police for violating due process guarantees. If police officers violate the Fourth Amendment in the processing of evidence, the exclusionary rule prevents the use of this evidence to obtain a conviction. Any evidence collected following an illegal search is also lost because of the fruit of the poisoned tree doctrine.

4. Arrest

An arrest is the act of taking an adult or juvenile into physical custody by authority of law for the purpose of charging the person with a criminal offense, a delinquent act, or a status offense, terminating with the recording of a specific offense. Technically, an arrest occurs whenever a law enforcement officer curtails a person's freedom to leave. Popular depictions of arrest differ significantly from legal understandings. When an arrest occurs in popular culture (often arrest is not necessary because deadly force was used by the police officer), it is usually after a high-speed chase or pursuit, the suspect resists the arrest, and then the officer reads the suspect his or her Miranda rights. In practice, such situations rarely occur, and a person is usually arrested after agreeing to be questioned by police officers.

5. Vehicle Searches

Vehicle searches are problematic for police officers. The U.S. Supreme Court, however, has given officers some freedom because of the mobility of automobiles. In general, an investigatory stop is permissible if supported by reasonable suspicion, and a warrantless search of the vehicle is valid if based on probable cause. Warrantless searches may extend to any area of the vehicle, including the glove compartment, the trunk, and packages in the vehicle and trunk. Officers can also request that the motorist and passengers get out of the vehicle. There are some limits on the extent of such searches, determined by case precedent. Officers must have a reason to stop a vehicle. If conducting an inventory search, officers must follow standardized criteria authorizing the search. Finally, full search of a vehicle incident to the issuance of a citation is not permitted.

6. Suspicion-less Searches

A suspicion-less search is a search conducted by law enforcement personnel without a warrant and without suspicion. Suspicion-less searches are only permissible if based on an overriding concern for public safety. The court essentially ruled that the need to ensure public safety provided a compelling interest that negated the rights of individual privacy. The court has used several drug cases to define and expand this right, arguing that the public-safety interests furthered by mandatory drug testing of employees outweighed privacy interests.

- List each of the Miranda warnings. Which recent U.S. Supreme Court cases have affected Miranda warning requirements?

- You have the right to remain silent.
- Anything you say can and will be used against you in a court of law.
- You have the right to talk to a lawyer and to have a lawyer present while you are being questioned.
- If you want a lawyer before or during questioning but cannot afford to hire a lawyer, one will be appointed to represent you at no cost before any questioning.

Moran v. Burbine and Colorado v. Spring describe the waiver of Miranda rights by suspects. Nix v. Williams created the inevitable-discovery exception to the Miranda requirements. New York v. Quarles established the public-safety exception to the Miranda rule.

7. Electronic Evidence

It is the information and data of investigative value that are stored in or transmitted by an electronic device are called electronic evidence. In addition to following general forensic and procedural principles, first responders should use special precautions when confronted with potential sources of electronic evidence. Experts emphasize five key points:

- Don't turn any electronic device on or off. Leave such devices as found, and let specially trained technicians handle them.
- Immediately secure, document, and/or photograph perishable data such as found on pagers, cell phones, and similar devices.
- Identify and label telephone lines attached to modems and caller ID boxes.
- Preserve latent fingerprints on keyboards and other components for collection after completing the recovery of electronic evidence, to prevent data loss from the effects of chemicals used to process latent prints.
- Secure and preserve items that may assist in the examination of electronic evidence. Calendars or software manuals, for example, may contain handwritten notes showing passwords or other crucial information.

This topic describes the legal environment surrounding police activities, from the search for and seizure of evidence through the arrest and interrogation of suspects. The Constitution of the United States especially the Bill of Rights is designed to protect citizens against abuses of police power. It does so by guaranteeing due process of law for every suspect and by ensuring the availability of constitutional rights to all citizens, regardless of state law or procedure. Within the

context of criminal case processing, due process requirements mandate that justice system officials respect the rights of accused individuals throughout the criminal justice process. From 1953 to 1969, the U.S. Supreme Court was known as the Warren Court because it was presided over by Chief Justice Earl Warren. The Warren Court was instrumental in expanding due process requirements so that they applied to the states as well as to the federal government. The Burger Court (1969-1986), headed by Chief Justice Warren E. Burger, began a movement away from Warren-era precedents and adhered to the principle that criminal defendants who claim violations of their due process rights must bear most of the responsibility of showing that the police acted outside of the law. The trend begun by the Burger Court continues today.

Topic : Policing: Issues And Challenges

Topic Objective:

At the end the student will be able to:

- Describe the police working personality, and relate it to police culture
- List and describe different types of police corruption, and discuss possible methods for building police integrity
- Explain the dangers of police work, and discuss what can be done to reduce those dangers
- Describe the situations in which police officers are most likely to use force, and provide some guidelines for determining when too much force has been used
- Describe racial profiling, and explain why it has become a significant issue in policing today
- Describe the civil liability issues associated with policing, and identify common sources of civil suits against the police

Definition/Overview:

Topic 8 discusses several important police issues, including police working personality and culture, corruption, the dangers of police work, police use of force, racial profiling and biased policing, and police civil liability. One powerful influence on law enforcement officers is the police culture. New recruits are molded by the police culture as supervisors and other officers teach rookie officers the informal policies of the department. Thus, there are two sets of rules that new police officers must learn and follow. The first set of rules includes those formal departmental policies and legal constraints that the officer learns in the training academy. The second set of rules involves the informal socialization that takes place as officers interact with older, experienced officers who teach how formal rules are interpreted. For example, experienced officers might explain to a new recruit that accepting free meals or bribes is expected, despite departmental policy clearly forbidding such behavior. The text discusses such activities in the section on police corruption, noting its historical pervasiveness. Topic 8 also discusses how police departments have attempted to respond to police corruption. Topic 8 also discusses the dangers of police work. Police work is dangerous, and officers are killed in the line of duty. For example, approximately 146 American law enforcement officers were killed in 2003. The rate of violent death of law enforcement officers, however, is relatively small. There are several other dangers discussed in this topic. Law enforcement officers are exposed to disease and infected evidence and must take necessary precautions or risk being infected with the agents that cause AIDS, hepatitis B, or tuberculosis. Other dangers include the stress and fatigue of police work. Stress is probably the least visible of police dangers, but its impact on officers is enormous. Police use of force is also examined in Topic 8. The use of force by police officers is very rare. When used, force is typically applied in an arrest situation when the suspect resists or is under the influence of drugs or alcohol. Deadly force is defined as the force likely to cause death or great bodily harm. The use of deadly force is a significant issue for law enforcement because of the potential civil liability, and *Tennessee v. Garner* is an important case, as it specifies the conditions under which deadly force can be used in the apprehension of suspected felons. Another area of civil liability discussed in Topic 8 is racial profiling. Called driving while black or driving while brown, racial profiling comprises those police-initiated actions that are based on race, ethnicity, or national origin rather than the behavior of the individual or crime-specific information.

There are several common sources of civil suits brought against police departments. These sources include failure to protect property, failure to render proper medical assistance, false arrest, false imprisonment, and inappropriate use of deadly force. Important considerations for civil suits are 1983 Lawsuits, which are civil suits brought under Title 42, Section 1983, of the U.S. Code against anyone who denies others their constitutional rights to life, liberty, or property without due process of law, and Bivens actions, which are civil suits, based on the case of *Bivens v. Six Unknown Named Defendants*, brought against federal government officials for denying the constitutional rights of others.

This topic describes the legal environment surrounding police activities, from the search for and seizure of evidence through the arrest and interrogation of suspects. The Constitution of the United States especially the Bill of Rights is designed to protect citizens against abuses of police power. It does so by guaranteeing due process of law for every suspect and by ensuring the availability of constitutional rights to all citizens, regardless of state law or procedure. Within the context of criminal case processing, due process requirements mandate that justice system officials respect the rights of accused individuals throughout the criminal justice process. From 1953 to 1969, the U.S. Supreme Court was known as the Warren Court because it was presided over by Chief Justice Earl Warren. The Warren Court was instrumental in expanding due process requirements so that they applied to the states as well as to the federal government. The Burger Court (1969-1986), headed by Chief Justice Warren E. Burger, began a movement away from Warren-era precedents and adhered to the principle that criminal defendants who claim violations of their due process rights must bear most of the responsibility of showing that the police acted outside of the law. The trend begun by the Burger Court continues today.

Key Points:**1. Police Working Personality and Central Features**

The working personality includes all aspects of the traditional values and patterns of behavior evidenced by police officers who have been effectively socialized into the police subculture. Characteristics of the police personality often extend to the personal lives of law enforcement personnel. Characteristics of the police working personality include authoritarianism, cynicism, conservatism, suspicion, hostility, individualism, insecurity, loyalty, efficiency, honor, secretiveness, and prejudice.

2. Police Working Personality Develop

American police officers develop a working personality through an informal socialization process wherein officers learn appropriate police behavior (that is, acceptable to fellow officers) from veteran members of the department. Once acquired, it creates a streetwise view of the world shared by members of the police ranks. The police working personality is a central component of police culture. Rookie officers are socialized into the police culture. Hiring practices, training, and interactions with supervisors, other officers, and citizens are all issues that impact this socialization process. The working personality is one by-product of this socialization process.

3. Different Types of Police Corruption

Police corruption ranges from minor violations to serious violations of the law. Examples might include accepting gratuities, playing favorites, taking minor or major bribes, committing criminal acts, denying civil rights, or committing violent crime. Researchers have also provided more specific categories of police corruption. Barker and Carter, for example, distinguish between occupational deviance and abuse of authority, and the Knapp Commission report distinguished between grass eaters and meat eaters. Opposed to the illegitimate use of police authority, however, are increased calls for integrity and ethical awareness in police work and the

continuing growth of professionalism. Professionalism, with its emphasis on education, training, high ethical values, and personal accountability, will lead to greater public recognition of the significance of police work and to higher police salaries. These, in turn, will do much to decrease corruption and deviance among law enforcement personnel.

Civil liability issues are very important in policing. They arise because officers and their agencies sometimes inappropriately use power to curtail the civil and due process rights of criminal suspects. High-speed chases gone wrong and allegations of unnecessary use of force provide the most visible instances of potential police civil liability today. Both police departments and individual police officers can be targeted by civil lawsuits. Supervisors can be named as defendants in lawsuits that claim that they failed to properly train their subordinates. Federal suits based on claims that officers acted with disregard for an individual's right to due process are called 1983 lawsuits because they are based on Section 1983 of Title 42 of the U.S. Code. Another type of civil suit that can be brought specifically against federal agents is known as a Bivens action. Although the doctrine of sovereign immunity barred legal action against state and local governments in the past, recent court cases and legislative activity have restricted the opportunity for law enforcement agencies and their officers to exercise claims of immunity.

4. Knapp Commission and the Wickersham Commission

Both the Knapp and Wickersham Commissions found existence of the infamous blue wall, a contributing factor in police corruption. The willingness of police officers to tolerate corrupt behavior known to them rather than to report it (characterized as ratting on a fellow officer) baffles most observers. Another important theme is that when huge sums of money are available with which to tempt police officers, some yield. That is less a function of their status as police officers and more the result of their status as human beings. The kingpins of the illegal liquor trade during Prohibition amassed such sums. Even greater wealth is in the hands of present-day drug lords. It is no surprise that some of that money is put to use to corrupt some members of the law enforcement community.

Like crime, corruption will never be eliminated. Human beings, by nature, are flawed; they will, on occasion, behave beneath expectations. Departmental leaders, however, can establish programs to minimize corruption. Ethics training must be emphasized. Additionally, formal and informal leaders within police ranks must create a culture wherein intolerance of behavior that diminishes the group is valued above misplaced loyalty toward a corrupt fellow officer.

5. Dangers of Police Work

The dangers of police work include violence in the line of duty, risk of disease and infected evidence, and stress and fatigue among police officers. Many police departments have taken proactive steps to reduce these dangers, improving training, developing support programs, and making organizational adjustments. The most important step that has been taken is that departments have acknowledged that these dangers exist and are starting to take proactive steps to reduce these dangers. It is important to note that the use of force is a relatively rare occurrence. Police use force in less than 20% of all adult custodial arrests. A report by the National Institute of Justice indicates that use of force typically occurs when making an arrest, the suspect resists, and the suspect is under the influence of alcohol or drugs or is mentally ill. The use of excessive force is more problematic. Force is excessive when it exceeds the level considered justifiable under the circumstances.

6. Racial Profiling

Racial profiling is any police-initiated action that is based on the race, ethnicity, or national origin rather than (1) on the behavior of an individual, or (2) on information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity. It has become a significant issue in policing today. First, several research reports were published that indicated that racial profiling is a significant problem. Second, media coverage of these reports and the publicity of specific profiling incidents increased public awareness and concern about this problem.

7. Civil Liability Issues Associated With Policing

There are several civil liability issues associated with policing. First, there have been an increasing number of suits brought in federal courts against police departments. Second, such cases generate a good deal of media publicity and criticism directed at the police department. Third, in general, the U.S. Supreme Court has supported a type of qualified immunity for individual officers. Some of the common sources of civil suits include failure to protect property, false imprisonment, inappropriate use of force or deadly force, racial profiling, false arrest, failure to prevent a foreseeable crime, and violations of constitutional rights. The most common sources of lawsuits include assault, battery, false imprisonment, and malicious prosecutions. Most police departments have started to carry liability insurance to protect themselves against the financial damages from losing a large civil suit. Police today face many challenges. Among them are the informal pressures on officers by a powerful subculture that communicates select values in support of a police personality; public demands, including organized opposition to practices like racial profiling; and the real possibility of corruption and deviance, which some see as inherent in the very nature of authority.

- In Section 3 of this course you will cover these topics:
 - The Courts: Structure And Participants
 - Pretrial Activities And The Criminal Trial
 - Sentencing
 - Probation, Parole, And Community Corrections

Topic : The Courts: Structure And Participants

Topic Objective:

At the end of this topic student would be able to:

- Describe the development of the American court system.
- Explain the concept of the dual-court system in America.
- Identify some of the differences between the state and federal court systems.
- Identify and explain the roles of the professional members of the courtroom work group.

- Discuss indigent defense, and know what forms it takes in the United States.
- Identify and explain the roles of the nonprofessional courtroom participants.
- Explain the roles of expert and lay witnesses in a criminal trial, and describe how their testimony might differ.
- Explain how professional and nonprofessional courtroom participants work together to bring most criminal trials to a successful close.

Definition/Overview:

Topic 9 provides an introduction to the American court system. It discusses the history of the dual-court structure in America, highlighting the decisions made at the various state and federal court levels. The text also describes the roles and responsibilities of professional and nonprofessional members of the courtroom work group. The American court system is unique in many ways. One of its distinctive characteristics is that it is a dual-court system of state and federal courts. The founding fathers thought an essential feature of the new republic would be the power of individual states to retain authority and autonomy separate from federal control. However, the nation's founders also created a federal court system to mediate violations of federal law and resolve violations of due process guarantees.

Most states have a three-level court structure. Trial courts are at the lowest level. Trial courts of limited or special jurisdiction hear only cases involving very minor crimes, such as misdemeanors and traffic violations. A judge, rather than a jury, usually resolves these cases. Trial courts of general jurisdiction, however, hear any criminal case and also provide the first level of appeal for cases decided in a court of limited jurisdiction. These decisions can then be appealed to the state intermediate appellate court. Appellate courts are concerned with reviewing the case on the record and will not conduct a new trial. Finally, all states have supreme courts, generally referred to as courts of last resort. The text provides a discussion of the Florida system to illustrate the various levels of a state court system.

The text also describes the federal court system. There are 94 district courts in the federal system. These courts are considered the trial courts of the federal system. The U.S. courts of

appeal provide the first level of appeal in the federal system. These courts, often referred to as circuit courts, are responsible for reviewing decisions from the federal district courts. The federal Supreme Court is the most powerful court in the United States. This Court reviews circuit court and state Supreme Court decisions.

Topic 9 describes the courtroom work group. The first professional courtroom work group member discussed in Topic 9 is the judge. The primary responsibility of the judge is to ensure that justice prevails. The judge is probably the most powerful individual in the courtroom, able to influence the outcome of a case by ruling on matters of law, procedure, and sentence. The text describes the qualifications necessary to be a judge and the selection of judges. Some judges are elected officials, others are appointed, and others are selected by the Missouri Plan. Although judges are generally well respected and highly ethical, the text describes several examples of judicial misconduct. The prosecuting attorney is responsible for representing the public and thus presents the state's case against the defendant. Prosecutors, typically with the help of several assistants, are responsible for deciding the appropriate charges for a defendant, preparing a case for each step of the court process, introducing evidence and witnesses to support the charges at trial, and perhaps advising the police. If the defendant is convicted, prosecutors make sentencing recommendations. The text also describes the significant amount of discretion possessed by prosecutors. Their discretion is limited, however, by a series of court decisions discussed in the text. For example, prosecutors are required to disclose any evidence that the defense requests. The prosecutor's main adversary is the defense attorney. While the prosecutor is responsible for case and trial preparation on behalf of the state, the defense attorney does the same for the defendant. The text describes the types of attorneys who provide criminal defense in the criminal justice system. In addition, it explains many of the important right-to-counsel cases. According to the Supreme Court's interpretation of the Sixth Amendment, defendants who face imprisonment if convicted and who are too poor to pay for an attorney are appointed counsel. These court decisions have forced states to provide counsel to indigent defendants using an assigned counsel, public defense, or contract arrangement system.

There are various other professional members discussed in Topic 9. The bailiff, for example, keeps order in the courtroom and maintains physical custody of the jury. The local court administrator is responsible for managing the local court. The court reporter creates the record of all that occurs at trial. The clerk of courts maintains court records, swears in witnesses, and marks for identification all physical evidence introduced at trial. Finally, expert witnesses have special knowledge and skills recognized by the court as relevant to the determination of guilt or innocence. Finally, Topic 9 discusses the various nonprofessional courtroom participants. Although not considered members of the courtroom work group, these outsiders can have a significant impact on the trial process. Lay witnesses provide testimony relevant to a specific case. Jurors hear the evidence presented and then make a determination regarding guilt. Crime victims have historically been considered the forgotten members of the criminal justice process, but their standing is changing. The defendant is also considered an outsider, but he or she has to be present at trial and can try to defend himself or herself. Finally, the press is often present in the courtroom, especially in celebrated cases, and may influence trial processes by publicizing facts about the case prior to trial or being present to record and publish trial testimony.

Key Points:

1. American Court System

The dual-court system is the result of compromise. The nation's founders stressed a need for individual states to retain significant legislative authority and judicial autonomy separate from federal control. States, when joining the union, were assured of limited federal intervention into their affairs. States were free to create laws and create a court system to interpret such laws. Unique features include the fact that state courts do not hear cases of federal law and the federal courts only decide issues of state law when there is a conflict between state statutes and constitutional guarantees.

2. Dual-Court System

The dual-court system in America is comprised of courts on two levels—the federal and the state. The dual-court system results from America's adoption of the federal system of governance. The federal government holds to itself power over matters that are national in scope while relinquishing power to the states over other matters. This structure necessitates the existence of court systems in each resulting jurisdiction that are empowered to rule on matters from the unique perspective of that jurisdiction's constitution.

3. Differences between the State and Federal Court Systems

There are several differences that can be discussed. First, the two court systems have different jurisdiction over various issues of law. Second, the number of cases processed by the two systems is very different. Far more cases are processed through state court than the federal court system. Third, the types of cases processed by the two systems are different, as many more misdemeanors and offenses are processed in state court systems. Finally, state court systems are much more likely to have instituted some informal type of court, such as dispute-resolution centers, to handle some cases. State criminal courts present an intriguing contrast. On the one hand, they exude an aura of highly formalized judicial procedure, while on the other they demonstrate a surprising lack of organizational uniformity. Courts in one state may bear little resemblance to those in another. Court reform has not had an equal impact on all areas of the country and has, in some instances, exacerbated the differences between state court systems. Federal courts, located principally in larger cities, decide only those cases over which the Constitution gives them authority. The highest federal court, the U.S. Supreme Court, is located in Washington, D.C., and hears cases only on appeal from lower courts.

This topic also described professional and nonprofessional courtroom actors. In the professional category we find the judge, the prosecuting attorney, the defense counsel, the bailiff, local court administrators, the court reporter, the clerk of court, and expert witnesses. Nonprofessionals include lay witnesses, jurors, the victim, the defendant, and spectators and members of the press.

4. Professional Members of the Courtroom Work Group and Their Roles

- Judge Ensures justice (balancing rights of accused and the interests of society). Holds ultimate authority.
- Prosecutor Responsible for presenting the states case against the defendant; also is a quasi-legal adviser to police departments.
- Defense Counsel Responsible for representing the accused as soon as possible after arrest and through all stages of the court process.
- Bailiff Responsible for ensuring order in the court.
- Local Court Administrators Responsible for facilitating the smooth functioning of courts.
- Court Reporter Responsible for creating a record of all that occurs during a trial.
- Clerk of Court Maintains all records of criminal cases, prepares a jury pool, and marks physical evidence during trial.
- Expert Witnesses Testifies at trial about scientific evidence.

5. Three Forms of Indigent Defense Used In the United States

The three forms of indigent defense are court-assigned counsel, public defenders, and contractual arrangements. Attorneys who serve as public counsel often carry notoriously large caseloads and have limited funding for conducting a defense. They often focus on plea bargaining as a means of expediting cases through the system. Defendants believe that the degree of effort they receive from assigned counsel is less than they would receive from paid counsel. State courts have virtually unlimited power to decide nearly every type of case, subject only to the limitations of the U.S. Constitution, their own state constitutions, and state law. State and local courts, located in almost every town and county across the nation, are the courts with which citizens usually have contact. These courts handle most criminal matters and the great bulk of legal business concerning wills and inheritance, estates, marital disputes, real estate and land dealings, commercial and personal contracts, and other day-to-day matters.

6. Nonprofessional Courtroom Participants and Their Roles

- Lay Witnesses Provide nonexpert testimony, such as eyewitness testimony.
- Jurors Are the arbiters of facts presented at trial.
- Victim Works with the prosecutor to obtain a conviction.
- Defendant Obviously wants to defend himself against the charges.
- Press Provides an unbiased overview of courtroom proceedings.

7. Expert Witness

An expert witness possesses special knowledge and skills that are recognized by the court as being relevant to the determination of guilt or innocence. A lay witness is anyone called as an eyewitness or character witness or for some other explanatory purpose who is not an expert on relevant topics. An expert witness's testimony may include opinions or drawn conclusions. A lay witness, on the other hand, must testify to facts alone and is precluded from offering opinions or conclusions on the possible meaning of those facts relevant to the case at trial. Expert witnesses can opine and conclude based on their interpretation of the evidentiary material. Conflicting interpretations can lead to opposing opinions and conclusions. The testimony of a single expert witness might give those who hear it a greater degree of understanding. But when two expert witnesses testify with strongly held and convincingly expressed opinions that disagree, it tends to confuse the typical listener. The resulting lack of clarity most often translates to doubt in the minds of the jurors.

Both the professional and nonprofessional courtroom participants work together to bring cases to a successful close by understanding their respective roles. Each party has responsibilities that must be met so that cases can be processed in a way that is in accordance with the law. A judge might define success as the closure of a trial with all legal requirements met and a verdict rendered. Understandably, the defense attorney and his or her client (the defendant) might define success as an acquittal, while both the prosecutor and the victim would consider a conviction a successful conclusion. For the jury, success might mean arriving at a verdict that left each jury member feeling as if he or she had contributed to the achievement of justice for all parties

involved. Throughout the United States, there are two judicial systems. One consists of state and local courts established under the authority of state governments. The other is the federal court system, created by Congress under the authority of the Constitution of the United States.

Topic : Pretrial Activities And The Criminal Trial

Topic Objective:

At the end of this topic student would be able to:

- List and explain the steps typically taken during pretrial activities.
- Explain plea bargaining, and discuss its impact on the criminal justice system.
- Describe the various stages of a criminal trial.
- Explain the hearsay rule, and identify recognized exceptions to it.
- Explain the possible benefits of a professional jury system.
- Describe methods that have been suggested for improving the adjudication process.

Definition/Overview:

A fundamental concept of criminal justice in the United States is that the criminal justice system is an adversarial system. Justice is achieved when a talented adversary is able to convince a judge or jury that his or her perspective is the correct one. Topic 10 focuses on two issues central to understanding this adversarial system. First, the text describes pretrial activities. Second, the text describes the trial process. Topic 10 describes the early steps of the long and arduous court process. Usually within 48 hours after arrest, a suspect appears before a judge for his or her first appearance. During this stage, the legality of the arrest is assessed, the defendant is informed of the charges, and the decision on whether to release or detain pending trial is made. Judges have several bail options as well as a number of alternatives. Some alternative bail programs include release on recognizance (ROR); property bonds; deposit bail; conditional release; third-party custody; unsecured bond; and signature bond. Some states have enacted danger laws, limiting the right to bail for certain types of offenders. Suspects then experience either a grand jury hearing

or a preliminary hearing. There are significant differences between these two types of hearings, but the purpose of both is to filter cases out of the system if there is insufficient evidence to pursue the charges. Finally, the defendant is again informed of the charges and asked to make a plea at the arraignment stage. Defendants will plead either guilty, not guilty, or nolo contendere (no contest).

This topic also provides a discussion of plea bargaining. Think of plea bargaining as a negotiation process that involves the defendant, defense counsel, and the prosecutor. Defendants frequently waive their right to a trial and plead guilty, hoping to get something in return, such as a reduced sentence or a reduction in the number of charges. Prosecutors and defense attorneys also benefit from the plea-bargaining process because it helps keep cases moving through the court system. Defendants do have the right to withdraw a plea. Topic 10 concludes with a discussion of the trial process. Defendants have the right to a speedy trial, which generally means within 70 days after indictment. Once the trial process is initiated, the first step is jury selection. Attorneys, and in some jurisdictions the judge, select members of the jury through the voir dire process. Potential jurors can be dismissed by using challenges for cause and peremptory challenges. If a case is high profile, the jury will be sequestered for the length of the trial. After the jury is selected, the prosecution and defense will make opening statements. After these statements are completed, then the prosecution and the defense present various types of evidence, such as real, circumstantial, and direct. Closing arguments provide a review and a summation of the evidence. The judge then charges the jury and provides instructions on deliberation. Finally, the jury deliberates on the evidence presented during the trial and returns to the court with a verdict.

Key Points:

1. Steps during Pretrial Activities

- First appearance (which includes the bail decision)

- Grand jury or preliminary hearing
- Arraignment and the plea
- Plea bargaining

2. Plea Bargaining and Its Purpose

Plea bargaining is the negotiation process that occurs among defendant, prosecutor, and defense counsel. Its purpose is to provide a mutual agreement of these parties and the disposition of the case. Plea bargaining is essential to case processing. Prosecutors are able to get convictions, even if they have weak evidence, because of plea bargaining. The adversarial standard of proof beyond a reasonable doubt is difficult to achieve, and thus plea bargaining provides a sure thing. It also is beneficial to the entire court process, as the process saves time and resources of all parties since case preparation for trial is not completed. The existence of plea bargaining has also created an informal system in courthouses, as parties agree to common going rates, allowing for the smooth processing of cases. Detractors of the plea bargaining process point to the public's perception that offenders manipulate the process to escape just punishment. They see this as the strongest argument against plea bargaining. Such people cite denial of society's sense of justice when an offender receives a lesser degree of punishment than his or her actions might otherwise deserve. Its supporters contend that plea bargaining is an essential and effective means of moving cases through an expensive and overburdened system. In the absence of plea bargaining, they say, the sheer volume of cases would overwhelm the system, causing it to grind to a halt. Most people find plea bargaining acceptable simply because the alternative significant expansion of the criminal justice system at extraordinary expense is just not economically feasible.

3. Various Stages of a Criminal Trial

- Trial initiation. It is important to note that there are time limitations on the processing of cases.
- Jury selection. Jury members are selected from the public for jury duty. Prosecuting and defense attorneys question (voir dire) prospective jury members and eliminate them by making peremptory and for-cause challenges.

- Opening statements. Opening statements begin the presentation of information to the jury. Opening statements provide an opportunity for the prosecution and defense to describe what they intend to prove.
- Presentation of evidence. The state presents its evidence, and then the defense follows. Evidence presented includes direct, circumstantial, real, and hearsay.
- Closing arguments. Closing arguments are an oral summation of the case.
- Judges charge to the jury. The judge instructs the jury about the evidence presented and matters of law and describes the deliberation process.
- Jury deliberations and the verdict. The jury discusses the case, takes votes, and ultimately reaches a verdict.

4. Hearsay Rule

The hearsay rule is the long-standing precedent that hearsay cannot be used in American courtrooms. Rather than accepting testimony based upon hearsay, the court will ask that the person who was the original source of the hearsay information be brought into court to be questioned and cross-examined. A dying declaration is a statement made by a person who is about to die. When such statements relate to the cause and circumstances of the impending death, they may usually be repeated at trial (by those who heard them) as an exception to the hearsay rule. Most courts accept the truth of such statements on grounds that in the face of impending death, the dying individual would be unlikely to lie because he or she wishes to have a clear conscience. Spontaneous statements and out-of-court statements are other exceptions. Some think the present jury system is not so much outmoded as it is overmanipulated. The tailoring of juries during voir dire to achieve a desired racial, ethnic, or gender balance is disconcerting to many. Their simplistic view of the requirement for a trial before a randomly selected jury means just that pick 12 people at random, put them in the jury box, hold the trial.

Others, however, believe changes to the jury process are essential. An oft-heard recommendation is for reduction of the size requirement from 12 members to six. Some advocate elimination of the current random selection process as being too expensive and time-consuming. They suggest

establishment of a professional jury system to improve efficiency. Proponents of the professional jury concept suggest such a system would provide greater dependability, would provide a jury pool with greater understanding of the law and legal processes, and would enhance equity by reducing the impact of emotionalism. Opponents say the notion of professional jurors is an idea whose time should never come. They suggest jurors might vote based not on the evidence presented but on the fact that the accused fits the type for a ruling of guilt or innocence, an opinion based on the jurors previous trial experiences.

5. Adjudication Process

There have been several proposals for improvement: first, court unification to eliminate the overlapping and fragmented jurisdictions of court decision making; second, court-watch citizen groups; third, statistical measurement of court performance. This topic described pretrial practices and the criminal trial process. Before trial, courts often act to shield the accused from the punitive power of the state through the use of pretrial release. In doing so, they must balance the rights of the un-convicted defendant against the potential for future harm that he or she represents. A significant issue facing pretrial decision makers is how to ensure that all defendants, rich and poor, black and white, male and female, are afforded the same degree of protection. This topic identified the criminal trial as the hallmark of American criminal justice and discussed the activities characteristic of today's criminal courts. The criminal trial, which owes its legacy to the development of democratic principles in Western society, builds on an adversarial process that pits prosecution against defense. Trials have historically been viewed as peer-based fact-finding processes intended to protect the rights of the accused while disputed issues of guilt or innocence are resolved.

The adversarial system, which has served American courts for more than 200 years, is now being questioned. Well-publicized trials of the last decade or two have demonstrated apparent weaknesses in the trial process. Moreover, the plethora of recent social and technological changes might at least partially supplant the role of advocacy in the fact-finding process. In many cases, new technologies that the framers of our present system did not anticipate (such as DNA

fingerprinting) hold the promise of closely linking suspects to criminal activity. Today's electronic media can rapidly and widely disseminate investigative findings, widening the meaning of the phrase "a trial by one's peers." Whether the current adversarial system can continue to serve the interests of justice in an information-rich and technologically advanced society will be a central question for the twenty-first century.

Topic : Sentencing

Topic Objective:

At the end of this topic student would be able to:

- Describe the five goals of contemporary criminal sentencing.
- Illustrate the difference between indeterminate and structured sentencing.
- Describe the different types of structured sentencing models in use today.
- Define mandatory sentencing, and explain how it came about.
- Describe truth in sentencing.
- Explain the importance of federal sentencing guidelines.
- Describe the nature and importance of the presentence investigation report.
- Describe the history of victims' rights and services, and discuss the growing role of the victim in criminal justice proceedings today.
- List the four traditional sentencing options.
- Outline the arguments for and against capital punishment.

Definition/Overview:

Duane Harris, having recently pleaded guilty to one count of armed robbery, stood before Judge Joe Marist waiting to hear his sentence. The judge, known by his peers as Hanging Joe, sentenced Duane to the maximum possible sentence under the law: ten to 25 years in a maximum-security prison.

The text discusses several important aspects of sentencing in Topic 11. The text describes five goals of contemporary sentencing: retribution, incapacitation, deterrence, rehabilitation, and restoration. Retribution corresponds to the just deserts model of sentencing and is best understood from the biblical reference to eye for an eye, tooth for a tooth. Incapacitation seeks to isolate offenders from society. Deterrence, both specific and general, focuses on preventing crimes. Rehabilitation seeks to change the offender, and restoration seeks to make the victim whole again. Topic 11 also describes types of sentencing practices. Harris was convicted in a state that uses an indeterminate sentencing model. Judges have the most discretion in states adhering to this model. A judge is expected to assess the differences among cases, situations, and offenders in an attempt to tailor the sentence to be appropriate and proportionate. It is also believed that offenders will be more likely to participate in rehabilitation programs if they can reduce the amount of time served.

The text highlights several problems with the indeterminate sentencing model. The most significant criticism is the inequality of sentences. Harris received the maximum possible sentence under the law. It is possible that another offender, sentenced by another judge in an adjacent courtroom, could receive a probation sentence or significantly fewer years in prison. The personalities of different judges, race of the offender, race of the victim, and social class have all been shown to be factors contributing to disparities in sentences. In response to the various problems of indeterminate sentencing systems, states and the federal government have revised sentencing practices in order to structure sentencing more precisely. For example, some states have adopted a determinate sentencing model that requires offenders to be sentenced to a fixed term. Other states have developed voluntary/advisory sentencing guidelines, and some have adopted presumptive sentencing guidelines. Guideline jurisdictions specify a presumptive sentence for an offense but also allow the judge to consider aggravating and mitigating factors. Another type of structured sentencing discussed in the text is mandatory sentencing.

In general, judges try to make informed and fair sentencing decisions. The presentence investigation report assists judges with their decisions. Provided as a detailed report, as an

abbreviated report, or as an oral report to the court, the presentence investigation report provides information about the defendant and the offense. It may also include a recommendation from the probation officer. Another factor that judges may consider when deciding the sentence is the impact of the crime on the victim. Victim-impact statements provide an opportunity for crime victims, or surviving family members of a victim, to describe the suffering caused by the crime.

Finally, the text discusses the typical sentencing options available to the judge. Imprisonment and probation are mentioned but are discussed in more detail in later topics of the text. The frequent use of fines as a criminal sanction is also discussed. Topic 11 concludes with a discussion of capital punishment.

There are currently nearly 3,500 offenders on death row. The number of offenders executed in a year is relatively small, but those numbers will probably increase because of Supreme Court rulings on habeas corpus review. Capital punishment is one issue that generates considerable debate. Many people oppose the death penalty because they believe it is not an effective deterrent to crime, is not applied fairly, or is costly and because there is always a risk of killing an innocent person. However, most of the public supports capital punishment. Revenge, just deserts, and protection are the key supporting arguments of retentionists.

Key Points:

1. Five Goals of Contemporary Criminal Sentencing

Retribution is the taking of revenge upon an offender for his or her criminal act(s). Incapacitation seeks to deny a criminal the opportunity to commit an offense. Deterrence is the effort to prevent others from committing a criminal act similar to the one for which an offender is being sentenced. Rehabilitation is the effort to reform an offender. Restoration attempts to make the victim of a criminal act whole again. Many factors must be considered in determining the primary goal of sentencing. Among them are the prevailing public attitude toward crime and punishment and the severity of the crime for which the offender is being punished. Sentencing goals must be individualized for the crime and the offender. For example, it would be unjust to

focus on retribution with a first offender convicted of committing a relatively minor property offense while emphasizing rehabilitation for a repeat offender convicted of a violent crime.

2. Illustrate the Difference between Indeterminate and Structured Sentencing

Indeterminate sentencing seeks to rehabilitate by affording the offender an opportunity to reduce his or her sentence. Under indeterminate sentencing, offenders receive unspecified sentences (e.g., one to ten years of imprisonment). The offenders performance while incarcerated determines the point at which she or he is paroled. In addition to good time, the offender can accelerate his or her release through participation in various rehabilitation programs. Critics of the indeterminate model called for the recognition of the basic sentencing principles of proportionality, equity, and social debt. These criticisms led many states to adopt some form of structured sentencing, such as determinate sentencing (convicted offenders are sentenced to a fixed term reduced by good time), or sentencing guidelines (general guidelines based on past sentencing practices).

3. Structured Sentencing Models Use

Structured sentencing models include determinate sentencing, voluntary/advisory sentencing guidelines, and presumptive sentencing. Although each structured sentencing model has some advantages in better accomplishing proportionality, equity, and social debt when compared to indeterminate sentencing, these models are not without criticism, and there is little evidence to indicate that any of these models will be effective long-term crime-reduction strategies. In determining appropriate sentences under the structured sentencing model, sentencing commissions typically consider the degree of deserved punishment as a factor in the equation. It would seem, therefore, that the notion of just deserts is inherently consistent with this model.

4. Mandatory Sentencing

Mandatory sentencing is a structured sentencing scheme that allows no leeway in the nature of the sentence required and under which clearly enumerated punishments are mandated for specific offenses or for habitual offenders convicted of a series of crimes. Mandatory sentencing eliminates judicial discretion. In contrast, judges have the most discretion under indeterminate sentencing schemes. Mandatory sentencing laws are generally reactionary measures, usually created during periods of emphasis on a specific type of crime, such as drugs or violent crime. The media, politicians, and the public create and react to this emphasis, and a common policy outcome is sentencing enhancements or mandatory sentences.

5. Truth in Sentencing

Truth in sentencing occurs when there is a close correspondence between the sentence imposed upon an offender and the time actually served prior to release from prison. Many states have replicated the federal truth-in-sentencing model because the federal government has made funds available to states for prison construction. The goals of criminal sentencing are many and varied, and they include retribution, incapacitation, deterrence, rehabilitation, and restoration. The just deserts model, with its emphasis on retribution and revenge, may be the most influential sentencing philosophy in the United States today. Many citizens, however, still expect sentencing practices to provide for the other general sentencing goals. This ambivalence toward the purpose of sentencing reflects a more basic cultural uncertainty regarding the root causes of crime, the true nature of justice, and the fundamental goals of the criminal justice system.

Structured sentencing, embodied in the Federal Sentencing Guidelines (whose applicability has been called into question by recent U.S. Supreme Court decisions) and in many state sentencing programs today, is a child of the just deserts philosophy. The structured sentencing model, however, while apparently associated with a reduction in biased and inequitable sentencing practices that had characterized previous sentencing models, may not be the panacea it once seemed. Inequitable practices under the indeterminate model may never have been as widespread as opponents of that model claimed them to be. Worse still, the practice of structured sentencing

may not reduce sentencing discretion but merely move it out of the hands of judges and into the ever-widening sphere of plea bargaining. Doubly unfortunate, by de-emphasizing parole, structured sentencing weakens incentives for inmates to undergo positive change and tends to swell prison populations until they're overflowing. Even so, as society-wide sentiments and the social policies they support swing further in the direction of social responsibility, the interests of crime victims and the concerns of those who champion them are likely to be increasingly recognized.

6. Development of Federal Sentencing Guidelines

The Sentencing Reform Act of 1984 created the nine-member U.S. Sentencing Commission. This commission was provided general guidelines to follow during its deliberations and then analyzed thousands of cases, eventually creating a punishment scale in the form of a sentencing table. Punishments within the table were regarded as typical for specific offenses. The commission also considered federal law, parole guidelines, and the impact of particular kinds of sentences on federal prison populations. The key factors that judges are to consider when deciding sentences under the guidelines are the seriousness of the offense and the prior record of the offender. Recently, however, the U.S. Supreme Court has called into question the fact-finding authority of federal (and state) judges in making sentencing decisions, ruling that other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum is, in effect, an element of the crime, which must be submitted to a jury and proved beyond a reasonable doubt. Consequently, federal sentencing guidelines have become merely advisory and federal judges are now given wide latitude in imposing punishments. While federal judges must still take the guidelines into consideration in reaching sentencing decisions, they do not have to follow them.

7. Presentence Investigation

Presentence investigations include the examination of a convicted offenders background prior to sentencing. Presentence examinations are generally conducted by probation or parole officers and are submitted to sentencing authorities. The investigation is critical to the quality of the

report, as probation officers rely on official records and information provided by the offender and victim. The more thorough the investigation is, the better the report. Presentence reports are used by judges to make more informed sentencing decisions, and generally a judge follows the report writers recommendation.

8. History of Victims Rights and Services

Victims have historically been considered outsiders to the criminal justice process. The role of the crime victim in the criminal justice process started to change in the 1970s as grassroots organizations worked to inform the public and politicians about the plight of crime victims. One result of this pressure was the 1982 Presidents Task Force on Victims of Crime. The task force opened a floodgate of legislative changes that have since been implemented to assist crime victims. Among the changes is an expansion of the role of the victim in criminal justice proceedings. Victims, for example, are able to provide victim-impact statements, and the constitutional amendments being considered will increase their involvement in the process even further.

9. Four Traditional Sentencing Options

The four traditional sentencing options are fines, probation, imprisonment, and death. The option selected depends usually on the severity of the offense and background characteristics of the defendant. Often two or more of these options are combined. Few issues inflame Americans passions as intensely as capital punishment. The views of both sides, often expressed through references to biblical passages they believe support their respective positions, typically reflect only the religious convictions of supporters and opponents alike, without regard for legal factors. While the eye for an eye cry of proponents and the vengeance is mine, sayeth the Lord chant of dissenters might play well on the six o'clock news, such visceral responses do little to advance reasoned discourse on the issue. Rather, they simply illustrate the sheer emotionalism surrounding the states authority to take a human life. One criminal justice professor offered three anecdotal examples, drawn from actual exchanges between students in his classes, that depict the

degree to which this emotionalism inhibits reasonable discussion of capital punishment. In the first instance, supporters argued that execution serves to deter crime. When opponents countered with statistical evidence disproving that position, the supporters rejected their opposition with the emotion-based argument that It sure will deter the guy who was just executed!

The second example involved a discussion of more than 300 cases of allegedly mistaken executions that have occurred since 1901. In each case, authorities reportedly discovered that the individual whose life they had taken was, in fact, not guilty of the crime for which he was executed. Not surprisingly, students opposed to capital punishment cited these events as proof that the law was wrong and called for immediate revocation of all capital punishment laws. They remained adamant even when it was pointed out that most claims of mistaken execution could not be supported with evidence. In the third illustration, opponents cited the disproportionate rates at which minority offenders are sentenced to death. Death penalty supporters responded that there are simply more of them committing crimes that warrant execution than being the supporters word choice, not the professors. This is a shining example of the discussants tendency to dismiss findings supported by the data in favor of gut responses driven by blind commitment to their emotional positions. Reasoned intellectual debate focused on the legal issues of capital punishment is needed in our society, but unless participants control their emotions, reasoned intellectual debate will be a rare event, indeed.

Topic : Probation, Parole, And Community Corrections

Topic Objective:

At the end of this topic student would be able to:

- Explain the differences between probation and parole, and describe the advantages and disadvantages of each.
- Describe in detail the legal environment surrounding the use of probation and parole, and know the names of significant court cases.
- Describe the federal probation system.

- Explain the nature of the job of probation and parole officers.
- List the advantages of intermediate sanctions over more traditional forms of sentencing.
- Describe the likely future of probation and parole.

Definition/Overview:

Topic 12 discusses many issues important to understanding community corrections. This topic focuses primarily on probation and parole. However, there is also a discussion of intermediate sanctions. Probation is a sentence of imprisonment that is suspended. Offenders, if they abide by the specific and general conditions of probation, will serve their entire sentences in the community. This provides them with the opportunity to continue to work or remain in school, maintain family and social ties, and use the treatment programs available in the community. Topic 12 discusses the history of probation in the United States and describes it as the most common form of criminal sentencing today. There are close to four million offenders currently on probation, and even offenders convicted of serious crimes are eligible for probation. Parole is often mistaken for probation, but the two sentences are different. When sentencing an offender to probation, a judge makes the decision that a prison sentence should be suspended and the offender should serve his or her sentence in the community. An offender is on parole when he or she first serves time in prison and then is conditionally released by the paroling authority. However, similar to the constraints put on the probationer, the parolee must abide by general and specific conditions or face revocation of parole. The text then describes the advantages and disadvantages of probation and parole. Advantages include lower cost than imprisonment, increased employment opportunities, opportunity to pay restitution, opportunity to receive community support, the reduced risk of criminal socialization, and the increased use of community services and opportunities for rehabilitation. Disadvantages include concerns about the lack of punishment, increased risk to the community, and increased social costs.

The legal environment of probation and parole is interesting because convicted offenders have fewer legal protections than someone accused of a crime. For example, the Supreme Court has

decided that probation officers may conduct searches without a warrant or without probable cause (*Griffin v. Wisconsin*). Parole boards do not have to specify the evidence used in denying parole (*Greenholtz v. Nebraska*), and incriminating statements to a probation officer may be used as evidence if the probationer does not specify a right against self-incrimination (*Minnesota v. Murphy*). It is important to note, however, that probationers and parolees have some legal protections. The important *Gagnon v. Scarpelli* and *Morrissey v. Brewer* decisions declared that probationers and parolees deserve procedural safeguards when their probation or parole is being revoked. The last section of Topic 12 describes intermediate and innovative sentences. Judges have a wide variety of intermediate sanctions at their disposal. A split sentence requires the convicted person to serve a period of confinement in a facility followed by a period of probation. Similar to this type of sentence, shock probation (or shock parole) involves sentencing an offender to prison but then allowing him or her to be released early to probation. The first part of a split sentence is typically spent in a jail, and the first part of a shock probation sentence is spent in prison. Shock incarceration is a sentence to a military-style boot camp prison. Intensive supervision involves frequent face-to-face contacts between the probationary client and probation officer. Other intermediate sanctions discussed in Topic 12 include mixed sentences, community service, and home confinement.

Key Points:

1. Probation and Parole Differ

Probation is a sentence to prison that is suspended, and parole is early release after serving at least part of the sentence in prison. Both impose conditions on offenders, and if an offender fails to abide by the conditions, then the offenders probation or parole can be revoked. The advantages include saving money, providing opportunities for rehabilitation, and helping the offender to remain part of the community. The primary disadvantage is that there is an increased risk to the community because the offender has increased freedoms when on probation or parole.

2. Significant Court Cases

- Griffin v. Wisconsin: The Supreme Court held that probation officers may conduct a search of a probationer's residence without a warrant or without probable cause.
- Pennsylvania Board of Probation and Parole v. Scott: The Griffin decision was applied to parolees.
- Escoe v. Zerbst: Argued that the revocation of probation without notice or hearing was acceptable practice.
- Gagnon v. Scarpelli and Morrissey v. Brewer: Declared a need for procedural safeguards for probationers and parolees, respectively.
- Greenholtz v. Nebraska: Established that parole boards do not have to specify the evidence used in deciding to deny parole.
- Bearden v. Georgia: Established that probation cannot be revoked for failure to pay a fine and make restitution if it cannot be shown that the defendant is responsible for the failure.
- Minnesota v. Murphy: States that incriminating statements to a probation officer may be used as evidence if the probationer does not specify a right against self-incrimination.

3. The Function of the Federal Probation System

The federal probation system's primary function is to relieve overcrowding in the federal prison system. In an early Supreme Court case, the Court ruled that federal judges did not have the authority to suspend sentences and order probation. This outraged the National Probation Association, which campaigned vigorously to convince Congress to pass the National Probation Act of 1925. Probation, simply put, is a sentence of imprisonment that is suspended. Parole, in contrast, is the conditional early release of a convicted offender from prison. Both probation and parole impose conditions on offenders, requiring them to obey the law, meet with probation or parole officers, hold a job, and the like. Failure to abide by the conditions of probation or parole can result in re-arrest and imprisonment.

4. Probation and Parole Officers

The work of probation and parole officers consists generally of the following four functions: presentence investigation, other intake procedures, needs assessment and diagnosis, and client supervision. Probation officers play an important role in the sentencing of convicted offenders

because after completing a presentence investigation, the probation officer makes a recommendation to the judge.

5. Intermediate Sanctions

Intermediate sanctions include the use of split sentencing, shock probation or parole, shock incarceration, community service, intensive supervision, or home confinement in lieu of other, more traditional sanctions, such as imprisonment and fines. They differ from more traditional forms of sentencing options in that they are generally considered a compromise between the lack of punishment for some sentences (probation) and the excessive punishment of other sentences (such as imprisonment). The major advantage of intermediate sentences is that they give judges more options when deciding an appropriate sentence. Other advantages include that they are less expensive than imprisonment and also that they are socially cost-effective.

6. Probation and Parole

Both probation and parole are frequently attacked for being ineffective and allowing offenders to get off easy for their crimes. These concerns are reflective of a broader social attitude that we must get tough with offenders. There has been significant pressure to abolish parole as well as significantly revise probation. Although the future is unclear, probation and parole will continue to play vital roles in the punishment of offenders. The reality of the imprisonment binge is that it is impossible for states to build prisons fast enough and many states prison systems are overcrowded. Probation and parole are necessary to deal with this overcrowding issue. It is probably not wise to eliminate parole, but certainly the administration of parole can be improved. Viewed historically, probation and parole are two of the most recent major innovations in the correctional field. Both provide opportunities for the reintegration of offenders into the community through the use of resources not readily available in institutional settings. Unfortunately, however, increased freedom for criminal offenders also means some degree of increased risk for other members of society. As a consequence, contemporary "get tough" attitudes have resulted in a decreased use of probation and parole in many jurisdictions and increased imprisonment. Until and unless we solve the problems of inaccurate risk assessment, increased recidivism, and inadequate supervision, probation and parole will continue to be viewed with suspicion by a public that has become intolerant of crime and criminal offenders.

In Section 4 of this course you will cover these topics:

- Prisons And Jails
- Prison Life
- Juvenile Justice

Topic : Prisons And Jails

Topic Objective:

At the end of this topic student would be able to:

- Describe the nature and history of early punishments and their impact on modern correctional philosophy.
- Outline the historical development of prisons.
- Discuss the major characteristics and purpose of today's prisons.
- Describe the prison population in America today.
- Describe the just deserts model, and explain how it has led to an increased use of imprisonment and to prison overcrowding.
- Discuss how changes in the rate of criminal offending relate to changes in the rate of imprisonment during the last decade.
- Explain the role that jails play in American corrections, and discuss the issues that jail administrators currently face.
- Describe the role of private prisons today, and predict their future.

Definition/Overview:

Topic 13 discusses five areas related to imprisonment in the United States: early punishments, the emergence of prisons, prisons today, jails, and private prisons.

The massive institutions that house many inmates today are a relatively new invention. Most early punishment was corporal punishment, attempting to satisfy the doctrine of *lex talionis*. Topic 13 describes various types of corporal punishment, including flogging, mutilation, branding, public humiliation, workhouses, and exile.

Prisons first emerged in the early 1790s when Pennsylvania Quakers sought an alternative to corporal punishment. The Pennsylvania system made use of solitary confinement and also encouraged rehabilitation. The Pennsylvania system dominated prison construction until the 1820s. One of the first prisons to abandon the Pennsylvania model was Auburn prison in 1825, marking the beginning of the mass prison era. The Auburn style consisted of building mass prisons, where prisoners were held in congregate fashion and required to maintain silence.

The text describes several other historical eras in prison development. For example, it discusses how Captain Alexander Maconochie and Sir Walter Crofton influenced the practices at Elmira Reformatory. The reformatory era of prisons (1876-1890) gave way to the industrial prison era (1890-1935). During this era, prisons attempted to capitalize on convict labor. However, states had to limit the use of prison industries because of the Ashurst-Sumners Act. Punishment and security were the focus of the punitive era (1935-1945), but interest in reformation and rehabilitation of offenders grew in the era of treatment (1945-1967). Similarly, the community-based format era (1967-1980) attempted to decarcerate offenders and treat them in the community. This era was followed by the warehousing/overcrowding era (1980-1995) a period during which the number of incarcerated inmates nearly tripled. Finally, the current era is referred to as the just deserts era (1995-present). Today, there are almost 1,500 state and federal prisons in operation. The number of inmates is close to 1.5 million, and most prisons are operating above capacity. Most people sentenced to prison are convicted of violent crime, while property and drug crimes are nearly identical as the second most common types of offenses. There are more men than women in prison, and there are significant disparities by race. For

example, the incarceration rate for African-Americans is ten times greater than the figure for whites. More than 350,000 people are employed in the maximum-, medium-, and minimum-security state prisons across the country. In contrast, the Federal Bureau of Prisons classifies its institution according to five security levels. Most states use a classification system to assign new prisoners to a custody level based on dangerousness, escape risk, and type of offense. Jails are another type of confinement facility discussed in Topic 13. Jails, the responsibility of local governments, generally house either pretrial detainees or offenders with a sentence of a year or less. There are approximately 700,000 persons in the 3,365 jails in the United States. This section of the text also discusses women as the largest growth group in jails nationwide. Women in jails pose unique challenges to jail administrators because most jurisdictions do not have separate housing for female inmates. The text also discusses the fact that many jurisdictions are using citizen volunteer programs, jail boot camps, and regional jail systems. The last section of Topic 13 discusses private prisons. An increasing number of jurisdictions are contracting with private firms to provide their confinement responsibilities. Currently, there are more than 92,000 inmates housed in facilities run by private companies. Legal issues, and the relationship between the state-run and privately managed facilities, are interesting issues that have emerged since the privatization of prisons began.

Key Points:

1. Criminal Punishments

Most early punishments were cruel and inhumane. Types include flogging, mutilation, branding, public humiliation, workhouses, and exile. While it has been suggested that the United States return to physical punishments and public humiliation, most consider these options unacceptable. Opponents decry the deterrent effects, suggesting that such punishments would provoke rather than deter.

2. Historical Development of Prisons

The Pennsylvania system, established by the Quakers around 1790, employed solitary confinement, penance, and Bible study to achieve rehabilitation. The Auburn style also referred to as the congregate but silent system, was developed around 1820. In this form, massed prisoners were held in congregate fashion but required to maintain silence. Around 1876, the reformatory concept used indeterminate sentencing in an effort to rehabilitate inmates. It fell victim to the onset of the industrial prison age, in which states saw the opportunity to capitalize on inmate labor. Industrial prisons emerged around 1890. The demise of the industrial prison era was brought about by a moratorium on free-market prison industries imposed by the Ashurst-Sumners Act of 1935. The punitive era followed, characterized by an increased focus on custody and institutional security and an out-of-sight, out-of-mind philosophy in American attitudes toward inmates. In 1945, the treatment era evolved. Based upon a medical model of corrections, the philosophy implied that offenders were sick and could be rehabilitated through proper treatment. The community-based format, begun in the mid-1960s, represented a movement away from traditional confinement and an attempt to reform offenders behavior within local communities. High recidivism rates, resulting in public disappointment, ultimately led to a warehousing strategy in the late 1970s. Warehousing seeks to prevent recurring crime but abandons any hope of rehabilitation. It has also resulted in high rates of overcrowding in prisons throughout the country.

The mid-1990s saw the emergence of the just deserts era. Its emphasis is on individual responsibility for ones actions, with the imposition of deserved punishment as the logical consequence of wrongful actions. Just deserts continues to be the most influential perspective in the criminal justice field today, although there are some signs that it is beginning to wane. Clearly, each era has been based on dissatisfaction with the effects of the preceding philosophy, leading to a try something different approach. The eras emphases seem to pass repetitively through a punishment-rehabilitation-punishment cycle, with the focus changing to accommodate social attitudes toward crime and criminal offenders. The reemergence of prison industries, efforts to improve the quality of jail life, and the movement toward regional jails and private prisons typify ongoing efforts to find better ways to handle incarceration of convicted offenders.

3. Today's Prisons

Prisons have been influenced by a long history of using prisons to primarily punish. One goal of prisons is reform offenders the hope that through isolation and treatment the offender will change. Such efforts to rehabilitate are adversely influenced by the bureaucratic realities of prison organizations as well as changing attitudes about crime and punishment in the United States. The public has come to expect that prisons are places of punishment, and there has been public and political pressure to remove various types of treatment programming. The number of prisons, and the size of prison populations, has grown dramatically in the last 25 years. Many prisons are overcrowded because of the emphasis on just deserts. Prisons certainly punish and isolate offenders from society, but they are not very effective at rehabilitating offenders.

4. Social Characteristics of Today's Prisoners

Most people sentenced to state prisons have been convicted of violent crimes; most federal prisoners were convicted of drug crimes. Imprisonment varies considerably among states. There is a huge growing disparity between imprisonment rates for blacks and whites. Consider the following statistical difference: 1,229 white men are imprisoned for every 100,000 white men in their late 20s; 10,376 black men for every 100,000 black men of the same age are imprisoned. Many more men are sentenced to prison compared to women, but the incarceration rates for women are increasing at a greater rate.

5. Model of Corrections

The justice model emphasizes individual responsibility, and imprisonment is seen as a fully deserved and proper response for criminal behavior. The just deserts model clearly achieves the sentencing goals of retribution, incapacitation, and deterrence. Society feels safer with so many of its predators locked away, and theoretically the pool of offenders available to commit crimes is reduced. The downside, of course, is the high cost of housing, feeding, treating, training, and

supervising an ever-growing prison population. And the pool of available offenders has not declined as anticipated, as new candidates move in to seize criminal opportunities vacated by incarcerated offenders.

6. Rate of Criminal Offending and Changes

It is difficult to evaluate the link between criminal offending and imprisonment rates. In general, crime rates have declined significantly over the last ten years and imprisonment rates have increased dramatically. Supporters of the just deserts philosophy argue that the increases in imprisonment rates have caused the decline in crime rates, although there are many other possible explanations for the decline in crime rates including demographic changes and increased effectiveness of other criminal justice strategies. The state of today's prisons is largely the result of historical efforts to humanize the treatment of offenders, coupled with recent attempts to have the prison experience reflect prevailing social attitudes toward crime and punishment. "Doing time for crime" is our modern answer to the corporal punishments of centuries past. Even so, contemporary corrections is far from a panacea, and questions remain about the conditions of imprisonment in today's correctional facilities. Many prisons are dangerous places to live and work, others are overcrowded, and new ones are expensive to build.

The emphasis on security that characterizes correctional staff members and prison administrators leaves little room for effective treatment programs. Moreover, even with ongoing prison expansion, prison overcrowding is barely held at bay, and a continuing just deserts philosophy strongly influences today's correctional policy. The just deserts philosophy is characterized by a "get tough" attitude that continues to swell prison populations even as it reduces opportunities for change among individual inmates. It is a highly pragmatic philosophy, based at least partially on studies demonstrating the clear likelihood of recidivism among correctional clients, combined with a strong belief that nothing works to rehabilitate criminal offenders. As a result of these considerations, today's imprisonment practices rest on a policy of frustration. Prisons exist in a kind of limbo, continuing their role as warehouses for those who cannot be trusted or reformed. The heightened interest in efficient technologies of secure imprisonment and the need for court-

ordered reforms are signs that society has given up any hope of successful large-scale reformation among inmate populations.

7. Role of Jails That Play In American Corrections

Jails have a variety of roles in American corrections. First, they receive individuals pending arraignment and hold them awaiting trial. Second, they readmit probation, parole, and bail-bond violators and absconders. Third, they temporarily detain juveniles, the mentally ill, and others pending transfer. Fourth, they hold individuals for the military, for protective custody, for contempt, and for the courts as witnesses. Fifth, they transfer inmates to federal, state, and local authorities. Sixth, they house inmates from federal and state prison institutions because of overcrowding. Seventh, they operate community-based programs. Finally, they hold inmates sentenced to short terms. One issue for jail administrators is dealing with the growing population of women who are confined in jails. Jails were not designed to meet the unique needs of female offenders. Jails are also significantly overcrowded. Other issues include antiquated architectural design and organizational problems.

8. Role of Private Prisons Today

Private prisons present a viable option but raise difficult questions that will undoubtedly lead to legal challenges. For example, is the state ultimately responsible if an employee of a private prison firm harms an inmate? After all, the state incarcerated the inmate and then passed off responsibility for daily supervision of the inmate to a private entity by virtue of a contract with that entity. Does such passage of responsibility relieve the state of its overall responsibility? To be successful, private prisons must be subject to aggressive oversight. States cannot adopt an Its their problem now attitude based on the belief that the existence of a contract shields the state from responsibility for conditions in the prisons. Private prisons will likely flourish as governments seek to privatize many of the services and functions of government. The jury is still out on whether private prisons can consistently achieve correctional goals at predicted lower costs. Prisons are long-term secure confinement facilities in which convicted offenders serve

time as punishment for breaking the law. Jails, in contrast, are short-term confinement facilities that were originally intended to hold suspects following arrest and pending trial. Differences between the two types of institutions have begun to blur, however, as large and medium-size jails across the country are increasingly being called on to house offenders who have been convicted of relatively minor crimes and to accommodate a portion of our country's overflowing prison population.

Topic : Prison Life

Topic Objective:

At the end of this topic student would be able to:

- Describe the realities of prison life and prison subculture from the inmate's point of view.
- Explain the concept of prisonization.
- Illustrate the significant differences between men's prisons and women's prisons.
- Describe the realities of prison life from the correctional officer's point of view.
- Describe the causes of prison riots, and list the stages through which most riots progress.
- Explain the nature of the hands-off doctrine, and discuss the status of that doctrine today.
- Discuss the legal aspects of prisoners' rights, and explain the consequences of precedent-setting U.S. Supreme Court cases in the area of prisoners' rights.
- Explain the balancing test established by the U.S. Supreme Court as it relates to the rights of prisoners.
- Explain state-created rights within the context of corrections.
- Describe the major problems and issues that prisons face today.

Definition/Overview:

Topic 14 describes life in prison. The text focuses on the various social realities that coexist among correctional officers and inmates in male and female institutions, including prison riots, prisoners rights, and other issues facing prisons today. The discussion of the realities of the male

inmates world revolves around the discussion of total institutions and prison subcultures. Since inmates share all aspects of their lives on a daily basis, prison life is shaped by both the official structure and rules and the values and behavioral patterns of the inmates. New inmates undergo a process of prisonization, learning the values, language (prison argot), and rules of the institution. The text also describes nine inmate types who occupy various positions in the prison hierarchy. Topic 14 also describes the realities of life in prison for women. Although accounting for only 6.8% of the U.S. prison inmate population, the number of women in prison is growing rapidly. Two important factors contributing to this growth are female involvement in drug and drug-related offenses and the demise of the chivalry factor. Although there is some disagreement among scholars attempting to describe the social structure of women's prisons, many researchers find that females are more likely to be involved in prison families. Also, the amount and type of violence in female institutions is significantly different from what is found in male institutions. The text describes several types of female inmates, including the square, the cool, the life, and crack kids.

Correctional officers also undergo a socialization process into the prison culture. Due to overcrowded prisons and limitations in the number of staff, the primary mission of correctional officers is custody and control. The text describes six types of correctional officers and how they relate to inmates. The field of corrections is growing and is undergoing significant changes. Among the efforts to adapt to these changes is the professionalization of correctional officers. Topic 14 also discusses prison riots, emphasizing the explosive decade of prison riots. Several significant riots occurred between 1970 and 1980, beginning with the Attica riots and ending with the Santa Fe prison riots. Research indicates that the causes of prison riots include an insensitive prison administration and neglected inmates demands, the lifestyles most inmates are familiar with on the streets, dehumanizing prison conditions, the way that riots regulate inmate society and redistribute power, and the power vacuums created by a variety of factors. The text also discusses the five typical stages of a riot and the control of riots. Topic 14 provides an examination of the legal rights of inmates. Historically, courts have adhered to a policy of nonintervention with regard to prison management. However, this hands-off doctrine was abandoned in the late 1960s. Courts have since provided precedent in many areas important to

life in prison, including communications, religious practice, visitation, legal access to courts, privacy, medical care, and disciplinary proceedings. The balancing test is the important test applied to these areas of prison life. This test, articulated in the *Pell v. Procunier* decision, attempts to weigh the rights of an individual against the authority of states to make laws or otherwise restrict a persons freedom. Topic 14 concludes with a discussion of three issues facing prisons today. First, it discusses AIDS in prisons, describing the number of inmates infected and some of the strategies in place to reduce the transmission of this disease. Second, it discusses the growing geriatric offender population. With longer sentences, and the graying of the population, administrators must implement policies to deal with the special needs of geriatric and long-term inmates. Third, the special needs of mentally ill inmates are discussed.

Key Points:

1. Prison Subcultures

Prison subcultures reflect the values and behavioral patterns characteristic of prison inmates. They are the mechanisms that inmates develop in the population to cope with the realities of prison life. Subcultures likely derive from a drive to have some control over ones environment, or at least some small segment of ones environment. Because prison authorities control all aspects of an inmates life in the conventional world, the development of subcultures that cannot be controlled by those authorities gives inmates a means of exercising control in their real world.

2. Prisonization

Prisonization is the adaptive process each inmate undergoes soon after arrival into a prison setting. During prisonization, inmates learn the prison lifestyle and criminal values. Wheelers U-shaped curve represents the process through which inmates abandon conventional values held at the beginning of their incarceration and increasingly adopt the criminal values they encounter in the prison setting. As offenders near release, however, commitment to prison values lessens. Since the curve reflects the degree of commitment to sub-cultural values characteristic of the prison, it is shaped like the letter U.

3. Womens Prisons

Although there are far more males in prison than females, the number of women incarcerated continues to grow. The most significant difference between male and female prisons is in the social structure. Research has produced inconsistent results, but many scholars argue that women inmates construct pseudo families. The sexual relationships between inmates also differ, and staff and inmates are significantly more likely to have sexual relationships in womens prisons. Finally, violence in womens prison is less frequent. Reasons for not studying womens prisons as frequently include differences in the size of prison populations and differences in their involvement in criminal activities. In addition, the fact that the field of criminal justice was male dominated during the early days of the development of the discipline also had an impact.

4. Primary Concerns of Prison Staff

Custody and security remain the primary concerns of prison staff, and rightfully so. Other worthwhile goals might include the maintenance of fairness in prison operations and the creation of an environment that encourages rehabilitative efforts by the inmates. Causes of prison riots include

- An insensitive prison administration and neglected inmates demands.
- The lifestyles most inmates are familiar with on the streets.
- Dehumanizing prison conditions.
- To regulate inmate society and redistribute power balances among inmate groups.
- Power vacuums created by change in prison administration, the transfer of inmates, or court-order injunctions.
- The stages in riots include
 - Explosion.
 - Organization (into inmate-led groups).
 - Confrontation (with authority).
 - Termination (through negotiation or physical confrontation).
 - Reaction and explanation (usually by investigative commissions).
- Prison administrators can attempt to prevent riots by having incident-management procedures in place when triggering events happen in order to quell disturbances.

5. Hands-Off Doctrine

The hands-off doctrine is a policy of nonintervention with regard to prison management that U.S. courts tended to follow until the late 1960s. For the past 30 years the doctrine has languished as judicial intervention in prison administration dramatically increased, although there is now some evidence that a new hands-off era is approaching. It is important to note that most of the landmark cases discussed in this chapter were decided in the late 1960s and 1970s.

6. Commonly Accepted Rights of Prisoners in the United States

Due process entitlements extend to all people within the jurisdiction of the United States or of the individual states. Those rights are constitutionally mandated and protected. Further, the U.S. Supreme Court enforces them in its interpretation of those constitutional mandates. Important Supreme Court cases include:

- **Block v. Rutherford:** In the interests of security, jails can prohibit all visits from friends and relatives.
- **Bounds v. Smith:** Not only confirmed the right of prisoners to have access to the courts and to legal assistance but also required states to assist inmates in the preparation and filing of legal papers. This assistance can be given through trained personnel or through the creation and availability of a law library for inmates.
- **Cruz v. Beto:** Inmates must be given a reasonable opportunity to pursue their religious faith even if it differs from traditional forms of worship.
- **Estelle v. Gamble:** Requires prison officials to provide for inmates medical care, and established the concept of deliberate indifference in determining whether prison administrators are meeting the medical needs of prisoners.
- **Houchins v. KQED:** News personnel cannot be denied correspondence with inmates, but they have no constitutional right to interview inmates or inspect correctional facilities beyond what is available to the general public.
- **Hudson v. Palmer:** The need for prison officials to conduct thorough and unannounced searches precludes inmates right to privacy in personal possessions.
- **Johnson v. Avery:** Inmates have a right to consult jailhouse lawyers for advice if assistance from trained legal professionals is not available.

- Jones v. North Carolina Prisoners Labor Union: Prisons must establish some formal opportunity for the airing of inmates grievances.
- Pell v. Procunier: Supreme Court established a balancing test to guide prison authorities in determining what rights an inmate should have. Inmates should have the same rights as nonincarcerated citizens, provided that the legitimate needs of the prison for security, custody, and safety are not compromised.
- Ruiz v. Estelle: Challenged the structure of the Texas prison system and specifically required major changes in the handling of inmates medical care. The Court ordered an improvement in record keeping, physical facilities, and general medical care while it continued to monitor the progress of the department.
- Wolff v. McDonnell: Sanctions cannot be levied against inmates without appropriate due process. Beginning of concept of state-created liberty interests. Some argue that inmates should have no rights because they should forfeit them as a consequence of their criminal convictions. Courts in this country, however, have consistently opposed that notion. The rights prisoners do have, however, are constitutionally provided. Since constitutional provisions are open to court interpretation, and since political considerations frequently play a role in court appointments, the extent to which inmates rights are recognized tends to vary over time. Whereas federal courts followed a hands-off doctrine of nonintervention in the running of state prisons until 1969, federal court intervention in prison administration has greatly increased during the past three decades. Some people suggest that, as a consequence, prisoners now have too many court-created rights and that those rights are merely court-authored fictions with no bases in constitutional mandates.

7. The Balancing Test Established By the Supreme Court in Deciding Issues of Prisoners Rights

Applied to the corrections arena in the 1974 ruling in Pell v. Procunier, the balancing test is a principle developed by the courts that seeks to weigh a prisoners constitutionally guaranteed rights against the states authority to make laws or otherwise restrict a persons freedom in order to protect its interests and its citizens. As a gauge for determining regulatory limits on inmates privacy, the balancing test can be used to identify limitations that unduly restrict inmates privacy rights without an articulable and significant adverse impact on the states protective interests. In

the absence of such a balance, the limitation can be seen as a violation of prisoners protected liberties.

8 State-Created Rights

The term state-created rights (also called protected liberties) evolved from court decisions recognizing prisoner entitlements based on provisions contained in prison regulations. If, for example, a regulation mandated a hearing before movement of a prisoner from the general population to solitary confinement, the courts found a violation of the prisoners state-created liberty if solitary confinement was imposed without the hearing being held. In response to extremely aggressive litigation by prisoners over everything from the color of the shoes they are issued to the flavor of the pie they are served at dinner, present-day prison administrators have become very cautious about the implementation of new regulations. Each is scrutinized so closely for legal compliance that it is unlikely a regulation will be enacted that inadvertently creates new prisoner entitlements.

9. Major Problems and Issues that Prison Face Today

Three special problems facing corrections administrators today are health threats related to AIDS (acquired immunodeficiency syndrome), the aging of the prison population and the consequent health issues, and the unique problems of mentally ill prisoners. Each carries a spectacular price tag for health and treatment services that results in the consumption of disproportionate amounts of most prison budgets. In the future, special problems may include the housing of foreign terrorists, the emergence of new diseases that further tax prison health systems, or changes in public policy or the law that lead to increases in inmate populations (a condition that might overwhelm already crowded prisons and jails). Prisons are small self-contained societies that are sometimes described as total institutions. Studies of prison life have detailed the existence of prison subcultures, or inmate worlds, replete with inmate values, social roles, and lifestyles. New inmates who are socialized into prison subculture are said to undergo the process of prisonization. This involves, among other things, learning the language of prison, commonly called prison argot.

Prison subcultures are very influential, and both inmates and staff must reckon with them. Given the large and often densely packed inmate populations that characterize many of today's prisons,

prison subcultures are not easily subject to the control of prison authorities. Complicating life behind bars are numerous conflicts of interest between inmates and staff. Lawsuits, riots, violence, and frequent formal grievances are symptoms of such differences.

For many years, courts throughout the nation assumed a "hands-off" approach to prisons, rarely intervening in the day-to-day administration of prison facilities. That changed in the late 1960s, when the U.S. Supreme Court began to identify inmates' rights mandated by the U.S.

Constitution. Rights identified by the Court include the right to physical integrity, an absolute right to be free from unwarranted corporal punishments, certain religious rights, and procedural rights, such as those involving access to attorneys and to the courts. The conditional rights of prisoners, which have repeatedly been supported by the U.S. Supreme Court, mandate professionalism among prison administrators and require vigilance in the provision of correctional services. The era of prisoners' rights was sharply curtailed in 1996 with the passage of the Prison Litigation Reform Act, spurred on by a growing recognition of the legal morass resulting from unregulated access to federal courts by inmates across the nation. The legislation, in concert with other restrictions sanctioned by the U.S. Supreme Court, has substantially limited inmate access to federal courts. Today's prisons are miniature societies, reflecting the problems and challenges that exist in the larger society of which they are a part. HIV-infected inmates, geriatric offenders, and the mentally ill constitute special groups within the inmate population that require additional attention.

In recent years efforts to combat terrorism have presented new security challenges for America's prisons. Concerns over the spread of ideologies supportive of terrorism have expanded as the number of imprisoned terrorist sympathizers grows. Some believe that terrorist groups might use radical forms of Islam to actively recruit prisoners who see themselves as alienated from the wider society. The opportunity exists for correctional administrators to take a proactive role, however, in monitoring communications and observing behavior that might indicate potential terrorist activity.

Topic : Juvenile Justice**Topic Objective:**

At the end of this topic student would be able to:

- Describe the history and evolution of the juvenile justice system in the Western world.
- List and define the categories of children in today's juvenile justice system.
- Describe the nature of the problems that juveniles face in the United States today.
- Name the important U.S. Supreme Court decisions of relevance to juvenile justice, and describe their impact on the handling of juveniles by the system.
- Explain the similarities and differences between the juvenile and adult systems of justice.

Definition/Overview:

Juvenile crime is a perplexing problem for the criminal justice system. It is perplexing because research indicates that the amount of violent crime committed by juveniles is decreasing, but public demand for severe punishments for juveniles has increased. Moreover, the public's desire for a crackdown on juvenile crime, and the demand that juvenile punishments be equivalent to adult punishments, is inconsistent with the underlying philosophy of the juvenile court.

This topic examines four areas of juvenile justice: First, it examines the historical development of the juvenile justice system; second, it compares the juvenile justice system to the adult system; third, it discusses the juvenile justice system process; and finally, it discusses several criticisms of the juvenile system.

The text discusses the historical beginnings of the juvenile justice system throughout the world and in America and traces this history through several important Supreme Court cases decided in the 1970s and 1980s. The text's examination of the historical evolution of the juvenile justice system begins with a discussion of treatment of juveniles in the earliest times, when they were treated differently from adults. For example, the laws of King Aethelbert made no special provisions for offenders because of age. The common law principle of *parens patriae* is important to an understanding of juvenile justice because it means that the state can assume the

role of the parent and take custody of a child. In America, the criminal justice response to juveniles began in the early nineteenth century with the development of houses of refuge. The child savers movement began in the mid-1800s, influencing the development of reform schools. The early model, embodied in the Chicago Reform School, focused on emulating family environments to provide security and build moral character, emphasizing traditional values such as hard work. Finally, the text discusses the beginnings of the juvenile court era from early legislation in Massachusetts and New York to the Illinois juvenile law that was modeled by most states and the federal governments Juvenile Court Act. Most legislation included six categories of children subject to the jurisdiction of the juvenile court: delinquent children, undisciplined children, dependent children, neglected children, abused children, and status offenders. Topic 15 also covers several theoretical explanations for juvenile delinquency. This discussion includes Shaw and McKays social ecology approach, Cloward and Ohlins opportunity theory, and Sykes and Matzas neutralization techniques. Moreover, the text discusses two significant research efforts to identify the determinants of delinquency. First, the text discusses research conducted by Marvin Wolfgang that traced the delinquent behavior of a birth cohort in Philadelphia. Second, it discusses the Program of Research on the Causes and Correlates of Juvenile Delinquency and its three coordinated projects.

Topic 15 also provides an excellent overview of several important Court decisions affecting juveniles. The most significant is *In re Gault*. This decision guaranteed several procedural rights to juveniles including the right to have notice of the charges, the right to counsel, the right to confront and cross-examine witnesses, and the right to appeal. Other cases discussed include *In re Winship*, *McKeiver v. Pennsylvania*, *Breed v. Jones*, *Kent v. United States*, and *Schall v. Martin*. Juveniles, however, are not provided all the protections guaranteed to adult defendants. For example, juveniles do not have a constitutional right to a jury trial.

The juvenile justice system, as a process, involves four stages: intake, adjudication, disposition, and postadjudication review. Intake involves the filing of a juvenile petition by some party, such as the police, alleging illegal behavior by the juvenile. Adjudication is the trial process for juveniles. Adjudicatory hearings are similar to the adult trial, but with some exceptions. A dispositional hearing, similar to an adult sentencing hearing, occurs to determine the action the

court should take against a juvenile. Judges have several options at disposition, including outright release, probation, or confinement to a secure institution.

Topic 15 concludes by considering the future of the juvenile justice system, acknowledging that it will increase penalties, reduce privacy, and eliminate diversionary opportunities for juveniles.

Key Points:

1. History and Evolution of the Juvenile Justice System in the Western World

In past centuries, children who committed crimes could expect no preferential treatment because of their youth. There was little distinction between delinquency and criminality. Early American solutions were strongly influenced by churches and the Ten Commandments. By the end of the eighteenth century, when the Enlightenment occurred, people started to revisit the role of children in society. America changed dramatically in the early nineteenth century, and many children were victimized and abandoned. These changes pressured government officials to consider how best to help children in society. Most of the pressure to change came from the child savers movement. This movement created the reform school for children. As the needs of children were more broadly recognized, states began to adopt legislation requiring separate hearings for juveniles. In 1899, the Illinois juvenile law was passed, creating a juvenile system separate from the adult system and serving as a model throughout the nation.

2. Six Categories of Children Recognized By the Laws of Most States

In most jurisdictions, children subject to juvenile court jurisdiction are categorized as follows:

- Delinquent (those who violate the criminal law)
- Undisciplined (those said to be beyond parental control)
- Dependent (those without parents or a guardian to care for them)
- Neglected (those not receiving proper care from their parents or guardian)
- Abused (those who suffered physical abuse at the hands of their custodian)
- Status offenders (those who violated laws written only for children)

3. Problems That Juveniles Face In the United States Today

Problems include drug and alcohol abuse, violence, gangs, runaways, sexual abuse and other forms of abuse, and teen suicide. Most consider the existing list of categories to be sufficient and see no need to establish new categories. Behavior such as drug use and vicious delinquency fit into the delinquent child category as violations of criminal law. Rather than create new categories, it is probably best that habitual or especially vicious juvenile offenders be transferred to adult criminal court for processing an alternative available in all states today. As a result of the Courts ruling in Gault, juveniles are now guaranteed many of the same procedural rights as adults. The only adult rights not included in the decision were the right of appeal and the right to a transcript of any legal proceedings. Other Supreme Court decisions include *In re Winship*, *McKeiver v. Pennsylvania*, *Breed v. Jones*, *Schall v. Martin*, and *Illinois v. Montanez*. The problem with the juvenile justice system is that most of the public thinks it is flawed because the public focuses on the violent gang member who committed a murder at age 12. Most of the children in the juvenile justice system need the help of the courts and deserve the preferential treatment. Society should not punish juveniles because the system is flawed.

4. U.S. Supreme Court Decisions of Relevance to Juvenile Justice

Children are the future hope of each mature generation, and under today's laws they occupy a special status. That status is tied closely to cultural advances that occurred in the Western world during the past 200 years, resulting in a reevaluation of the child's role. Many children today lead privileged lives that would have been unimaginable several decades ago. Others are not as lucky, and the problems they face are as diverse as they are staggering. Some problems are a direct consequence of increased national wealth and the subsequent removal of children from the economic sphere, which has lessened expectations for responsible behavior during childhood. Other problems grow from the easy availability of illicit drugs a condition that has dramatically altered the early life experiences of many children, especially in the nation's large cities. Finally, the decline of traditional institutions, the plethora of broken homes throughout our country, and the immoral excesses of adult sexual predators have led to an early loss of childhood innocence. Gang involvement, child abuse and neglect, juvenile runaways and suicides, and serious incidents of delinquency have been the result. In the face of these massive challenges, the

juvenile justice system's commitment to a philosophy of protection and restoration has begun to crumble. The present juvenile system, for the most part, still differs substantially from the adult system in the multitude of opportunities it provides for diversion and in the emphasis it places on rehabilitation rather than punishment. The "professionalization" of delinquency, however, the hallmark of which is the repeated and often violent criminal involvement of juveniles in drug-related gang activity, represents a major challenge to the idealism of the juvenile justice system. Addressing that challenge may well prove to be the most significant determinant of system change in coming years.

In Section 5 of this course you will cover these topics:

- Drugs And Crime
- Terrorism And Multinational Criminal Justice
- The Future Of Criminal Justice

Topic : Drugs And Crime

Topic Objective:

At the end of this topic student would be able to:

- Discuss the history of drug abuse in America.
- Discuss the history of antidrug legislation in America.
- Identify the different types of drugs that are illegally used in this country, as well as the effects and legal classifications of each.
- Explain the link between drugs and other social problems, including different forms of criminal activity.
- Describe the various efforts to respond to the drug problem, and assess the effectiveness of each.

Definition/Overview:

The textbook examines the important issue of drugs and crime in Topic 16. Drug use, drug-related crime, drug laws, and drug-enforcement efforts significantly affect processes of criminal justice. A large proportion of the financial and personnel resources of the criminal justice system is used to respond to the drug problem in the United States. For example, police departments utilize undercover operations to increase the number of arrests of drug offenders, prosecutions for drug offenses overwhelm court dockets, and the number of defendants incarcerated for drug offenses continues to grow.

Topic 16 begins with an overview of the drug problem. First, it illustrates the importance of the topic by highlighting the specific impacts of drugs on the criminal justice system. The text also provides essential background information with a discussion of the question What is a drug? It also examines alcohol abuse and the criminal justice systems response to alcohol-related offenses. The text then traces the history of drug abuse, covering the use of opium, morphine, and heroin in the 1800s and early 1900s, the response to marijuana in the 1900s, the use of LSD in the 1960s and 1970s, the use of crack cocaine in the 1980s, and the increased use of club drugs in the 1990s. The text further discusses the corresponding history of antidrug abuse legislation in the United States. The first significant piece of federal antidrug legislation was the Harrison Act of 1914. The text describes the Marijuana Tax Act of 1937, the Narcotic Control Act of 1956, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and the Anti-Drug Abuse Act of 1988. This latter piece of legislation created the position of drug czar within the Office of National Drug Control Policy.

A detailed explanation of four major drug types, marijuana, cocaine, heroin, and club drugs, follows the discussion of antidrug legislation. The text describes how these drugs are produced, consumed, and trafficked into the United States. Cocaine, for example, is extracted from the leaves of the coca plant, produces intense psychological effects, and typically enters the United States from Peru, Bolivia, Colombia, or Ecuador. Topic 16 then examines social problems related to drugs. The topic discusses the link between drugs and crime and money laundering.

For example, the link between drugs and crime has at least three dimensions: crimes specifically related to the use or sale of drugs; crimes committed by drug users, such as the addict who commits robberies to maintain his or her habit; and the organized criminal and gang activities that support the drug trade. Topic 16 concludes with a discussion of various criminal justice strategies used to respond to the drug problem. These strategies have very different philosophical orientations. On the one hand, several methods focus on the supply side of drug use. Strict enforcement, forfeiture, interdiction, and crop-control efforts concentrate on responding to the problem by attacking the selling and production of drugs through increased efforts by police, courts, and correctional institutions. Strict enforcement efforts include calls for imposing harsher punishments and increasing the number of police officers responding to the problem. Forfeiture involves seizing the assets of individuals involved in drug trafficking, and interdiction involves international efforts to prevent drugs from entering the United States and to destroy crops. On the other hand, education, treatment, and counseling efforts focus on prevention and the drug user. For example, project DARE attempts to educate school children, focusing on decision-making skills, peer pressure, and choices. The topic concludes with a discussion of legalization and decriminalization efforts.

Key Points:**1. Illicit Use of substances and Substance Abuse in the United States**

Drug crimes and drug-related crimes account for a substantial proportion of all crimes committed in this country. While the manufacture, importation, sale, and use of illegal drugs account for a substantial number of law violations, many other offenses are also linked to drug use. Among them are thefts of all kinds, burglary, assault, and murder. Drug-related crimes occur because drugs are both expensive for users and extremely profitable for suppliers. The high cost of drugs forces many users, some of whom have little legitimate income, to commit property crimes to make money to continue their drug habit. On the other hand, users of illicit drugs who have substantial legitimate incomes may indirectly shift the cost of drug use to society through lowered job productivity, psychological or family problems, and medical expenses. An

examination of the history of drug abuse in America reveals that many substances considered illegal today have been used for a variety of purposes. For example:

- Opium was widely available in medicines of the nineteenth and early twentieth centuries.
- Morphine was widely prescribed and used by physicians.
- Marijuana was imported by Mexican immigrants in this country but was quickly criminalized.
- LSD has been used for the treatment of psychiatric disorders.
- Cocaine was also used for the treatment of psychiatric disorders. Cocaine was also put in medicine and beverages.

2. Most Important Pieces of Federal Drug-Control Legislation

Following are the most important Federal Drug-Control Legislation

- Harrison Narcotics Act (1914). This was the first major piece of federal anti-drug legislation, requiring that persons dealing in opium, morphine, heroin, and cocaine had to register with the federal government and pay a \$1.00 tax every year.
- Marijuana Tax Act (1937). This act placed a tax of \$100 per ounce on cannabis.
- Boggs Act (1951). This act made marijuana and several other drugs federally prohibited controlled substances.
- Narcotic Control Act (1956). This act increased penalties for drug trafficking and possession and made the sale of heroin to anyone under age 18 a capital offense.
- Comprehensive Drug Abuse Prevention and Control Act of 1970. Established schedules classifying psychoactive drugs according to their degree of psychoactivity.
- Anti-Drug Abuse Act of 1988. This act created a cabinet-level post (a drug czar to be in charge of federal initiatives), increased penalties for recreational drug users, denied federal benefits to convicted drug offenders, and included the possibility of capital punishment for drug-related murders.
- Crime Control Act of 1990. This act doubled the appropriations for drug-law enforcement grants, enhanced drug-control and drug-education programs, assisted rural states in drug-enforcement efforts, sanctioned steroids under the Controlled Substances Act, and created drug-free school zones.

- Violent Crime Control and Law Enforcement Act of 1994. This act accomplished many objectives, including providing funding to rural areas for anticrime and drug efforts, provided money for treatment and education programs, required post-conviction drug testing of all federal prisoners, and tripled penalties for using children to deal drugs in drug-free zones.
- Drug-Free Communities Act of 1997. This act provided support to local communities to reduce substance abuse among youth.

3. Major Types of Drugs in United States

- Marijuana. Produces euphoria, relaxation, intoxication, time distortion, memory alteration, and focused awareness. It is a Schedule I controlled substance.
- Cocaine. Produces excitability and feelings of competence and power. It is a Schedule II controlled substance.
- Heroin. Produces pleasure, euphoria, lack of concern, and a general feeling of well-being. It is a Schedule I controlled substance.
- Club Drugs. Varies by type of drug, but generally includes mild intoxication, hallucinations, and amnesia. They are Schedule I controlled substances.

Money is the chief reason why drug users migrate to other types of criminal behavior. Addiction to most drugs is extraordinarily expensive, and most users do not earn enough legitimately to support their habit and meet their other living expenses, too. The pull of addiction is so strong that it often leads users into crimes such as shoplifting, robbery, burglary, auto theft, and prostitution. Any realistic appraisal of the current situation must admit that the resources of the criminal justice system in dealing with drug crime are strained to the limit. There are simply not enough agents, airplanes, equipment, and money to entirely remove illegal drugs from American communities. The justice system faces the added problem of corruption a problem inherent in any social-control situation in which large amounts of money frequently change hands. Until attitudes that support drug use are modified or are replaced, law enforcement professionals can only hope to keep the problem of drug abuse in America from becoming worse and to keep from losing sight of their fundamental mandates in the process.

4. Strategies for Responding To the Drug Problem

The six identified types of strategies for attacking the drug problem include:

- **Strict enforcement.** A feel-good approach that has cost a fortune to sustain but that has done little to reduce the use and manufacture of controlled substances.
- **Asset forfeiture.** An aggressive approach that yields great monetary return but often ensnares truly innocent property owners.
- **Interdiction.** An almost futile effort to seal the borders of the United States to drug shipments.
- **Crop control.** Theoretically it is a good idea, but in practice it is more show than substance. Major obstacles include the inability to overcome the potentially huge profits for farmers of illegal plants and difficulties involved in getting foreign governments to cooperate in eradication efforts.
- **Education and treatment.** These are seen by some as the key to resolving the drug problem but are inherently long-term solutions that do little to reduce the problem now.
- **Legalization or decriminalization.** An approach that would likely reduce criminal justice expenditure, with commensurate expenditure increases for health care and attendant problems. Some say, however, that the additional costs to society resulting from erosion of the social and moral fabric would be immeasurable, making this the least attractive strategy. Some say getting tougher is the only solution. Their rather idealistic stance, however, often fails to address the problems that getting tougher brings on, such as ever-growing prison systems (and the staggering cost of running them) and growing inmate populations comprised of a large segment of an entire generation. Others favor the opposite approach: legalization or decriminalization of all illicit drugs. They cite the fact that drug use in America has become epidemic and believe it should be treated as a medical emergency, not a criminal emergency. The widespread use of illegal drugs in America today carries with it other social costs. Many criminal enterprises, for example, are supported by the street-level demand for drugs. Some of these illegitimate businesses are massive international cartels that will stop at nothing to protect their financial interests. Bribery, extortion, kidnapping, torture, and murder are tools of the trade among drug kingpins in their battle to continue reaping vast profits.

Topic : Terrorism And Multinational Criminal Justice**Topic Objective:**

At the end of this topic student would be able to:

- Describe the nature of comparative criminal justice, and identify the potential benefits of, and problems inherent in, cross-cultural comparisons of crime.
- Describe the principles that inform Islamic law.
- Identify important international criminal justice organizations, and explain their role in fighting international crime.
- Explain transnational crime, and explicate its possible relationship to terrorism.
- Define terrorism, and identify two major types of terrorism.
- Discuss the causes of terrorism and the U.S. government's attempts to prevent and control the spread of terrorism.
- Explain why terrorism is a law enforcement concern and how it is a form of criminal activity.

Definition/Overview:

Thus far, the textbook has focused primarily on criminal justice in the United States. As you have discovered, the criminal justice process can be complex and confusing. However, the attention given to important criminal justice issues has provided the necessary foundation to cut through this complexity to develop a comprehensive understanding of the criminal justice system in the United States. Topic 17 provides the opportunity to expand your understanding of these processes by first discussing the work of comparative criminologists. Comparative criminologists are interested in examining crime and criminal justice at a cross-national level. Topic 17 provides considerable information on Islamic criminal justice system. Topic 17 also discusses terrorism in the United States.

Although it is difficult to compare crime rates across countries because of the differences in the ways crimes are defined, diverse crime-reporting practices, and political influences, we can learn a great deal from investigating similarities and differences of criminal justice processing in

different countries. Consider the Islamic criminal justice system. The four primary sources of Islamic law are the Koran, the teachings of the Prophet Muhammad, the consensus of the clergy, and reason or logic. A key distinction of Islamic law is the difference between Hudud and Tazir crimes. Hudud crimes are serious violations of Islamic law and regarded as offenses against God. These crimes are essentially violations of natural law, and the punishment for committing one is severe. In contrast, Tazir crimes are minor violations of Islamic law. These offenses are regarded as offenses against society, not God.

The three levels of the Islamic court system are also discussed. The next section of Topic 17 focuses on international criminal justice organizations and transnational crime. This section describes the International Society of Criminology (ISC) and the role of the United Nations in criminal justice. It also describes the activities of INTERPOL and Europol. INTERPOL is an acronym for International Criminal Police Organization, an international law enforcement organization that began operations in 1946. Europol is the integrated police intelligence-gathering and dissemination arm of the member nations of the European Union. Transnational crime has been influenced by the ongoing process of globalization. Globalization refers to the internationalization of trade, services, investment, information, and other forms of human social activity. The final section of Topic 17 discusses terrorism in the United States. Since the attacks on the World Trade Center and the Pentagon, terrorism has become a top-priority political and criminal justice issue. For example, significant legislation has been passed to improve the response to both domestic and international terrorism. Domestic terrorism refers to the unlawful use of force by an individual or group operating entirely in the United States. International terrorism refers to the unlawful use of force or violence by a group or individual with some connection to a foreign power. Other types of terrorism discussed in this section include cyber-terrorism and narco-terrorism. When considering how best to combat terrorism, the topic discusses the role of the Department of Homeland Security. The topic concludes with a discussion of foreign terrorist organizations and the future of international terrorism.

Key Points:**1. Potential Benefits of Studying Criminal Justice Systems**

Comparative criminal justice is becoming increasingly valued for the insights it provides. By contrasting native institutions of justice with similar institutions in other countries, procedures and problems that have been taken for granted under one system can be reevaluated in the light of world experience. Such reevaluation may yield information we can use to improve our own system. It is also possible, of course, that such study may lead to the discovery of domestic inequities that would place America in a difficult political position, as some say has happened in the area of the death penalty. Difficulties are often encountered in the comparison of crime rates from one country to another because of differences in the way a specific crime is defined, diversities in crime-reporting practices, and political and other influences on the reporting of statistics to international agencies.

Definitional differences create what may be the biggest problem. For cross-national comparisons of crime data to be meaningful, reported data must share conceptual similarities. Unfortunately, that is rarely the case. Nations report offenses according to the legal criteria by which arrests are made and under which prosecution can occur. When legal criteria differ between nations, data are inherently inaccurate. Social, cultural, and economic differences among countries compound the difficulties. Auto theft statistics, for example, when compared between countries such as the United States and China, need to be placed in an economic as well as demographic context.

While the United States has two automobiles for every three people, China has only one car per 100 citizens. For the Chinese auto theft rate to equal that of the United States, every automobile in the country would have to be stolen nearly twice each year! Reporting practices vary substantially between nations, and no mechanism exists for confirming the accuracy of reported data. Many countries simply do not disclose requested information, and those that do often make only partial reports. International reports of crime are also often delayed. Complete up-to-date data are rare, since the information made available to agencies such as the United Nations and INTERPOL is reported at different times and according to schedules that vary from nation to nation. Crime statistics also reflect political biases and national values. Some nations do not

accurately admit to the frequency of certain kinds of culturally reprehensible crimes. Communist countries, for example, appear loath to report property crimes such as theft, burglary, and robbery because the very existence of such offenses demonstrates felt inequities within the Communist system.

2. Principles That Inform Islamic Laws

Islamic law is a system of duties and rituals founded on legal and moral obligations that are sanctioned by the authority of a religious leader, who may issue commands that the faithful are bound to obey. Four aspects of justice include (1) a sacred trust, a duty imposed on humans to be discharged sincerely and honestly; (2) a mutual respect by one human being for another; (3) an aspect of the social bond that holds society together; and (4) a command from God. Items 3 and 4 are the ones most commonly invoked in Islamic jurisprudence and form the basis of criminal justice practice in many Middle Eastern countries.

3. Important International Criminal Justice Organizations

INTERPOL is an international law enforcement support organization that began operations in 1946 and today has 137 members. INTERPOL acts as a clearinghouse for information on offenses and suspects who operate across national boundaries. Europol is the integrated police-oriented intelligence-gathering and dissemination arm of the member nations of the European Union. Its mission is to improve the effectiveness and cooperation within the member states of the European Union.

4. Transnational Crime

Transnational crime is the unlawful activity undertaken and supported by organized criminal groups operating across national boundaries. Transnational crime is similar to organized crime in many respects, and individuals participating are very opportunistic in deciding what types of crimes to commit. These organizations will certainly consider using terrorism or supporting

terrorist organizations in order to accomplish their objectives. Transnational crime, brought about in part by globalization of the world's economy and by advances in technologies supporting communications and transportation, may be one of the most significant challenges of the twenty-first century. Organized international criminal cartels recognize no boundaries and engage in activities like drug trafficking, money laundering, human trafficking, and international weapons smuggling. Given enough time, most barriers can be overcome. Although political, economic, and ideological differences will remain dominant throughout the world for many years, the globe is shrinking. Advances in communications, travel, and the exchange of all types of information are combining with a huge growth in technology to produce an interdependence among nations. As new international partnerships are forged, barriers to understanding should continue to fall.

5. Terrorism and Two Major Types of Terrorism

Terrorism is a violent act or an act dangerous to human life, in violation of the criminal laws of the United States or of any state, committed to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. Domestic terrorism is the unlawful use of force or violence by a group or an individual who is based and operates entirely within the United States and its territories without foreign direction and whose acts are directed at elements of the U.S. government or population. International terrorism is the unlawful use of force or violence by a group or an individual who has some connection to a foreign power, or whose activities transcend national boundaries, against people or property in order to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives. The international perspective has much to contribute to the study of American criminal justice. Law enforcement agencies, court personnel, and corrections officials in the United States can benefit from learning about innovative crime-prevention, investigative, and treatment techniques used in other parts of the world. By studying foreign legal codes and the routine practice of criminal justice in other countries, policymakers can acquire a fresh perspective on the issues and decisions they face. A number of barriers continue to limit the applicability of cross-national studies, however. One is the continuing unavailability of sufficiently detailed, up-to-date, and reliable international information on crime

rates, victimization, and adjudication. Another, more difficult, barrier is imposed by ethnocentrism. Ethnocentrism, a culturally determined hesitancy on the part of some people to consider any personal or professional viewpoints other than their own, reduces the likelihood of serious analysis of even the limited international information that is available. Terrorism, which today is the focus of significant criminal justice activity, brings with it the threat of massive destruction and large numbers of casualties. Cyber-terrorism and attacks on information management segments of our nation's critical infrastructure could theoretically shut down or disable important infrastructure services like electricity, food processing, military activity, and even state and federal governments. The vigilance required to prevent terrorism, both domestic and international, consumes a significant number of law enforcement resources and has resulted in new laws that restrict a number of freedoms that many Americans have previously taken for granted.

6. Causes of Terrorism

Terrorism generally builds on a process that begins with considering underlying social conditions, such as poverty and political corruption. At the second level is the international environment relating to the differences between nations. Nations might provide the physical assets and bases for terrorist organizations to grow and function, and leadership provides direction to the organization. The efforts to prevent and combat terrorism include the passage of legislation providing resources and enhancing punishment of terrorists; creating government agencies, such as the Department of Homeland Security; and issuing reports suggesting strategies to respond to terrorism. The U.S. government is spending an incredible amount of money in an attempt to prevent and respond to terrorism. American law enforcement agencies are responsible for combating threats to public safety. Since terrorist actions inherently jeopardize public safety, they clearly are a specific concern of law enforcement. Terrorism consists of acts perpetrated for the express purpose of inducing a degree of fear in a target population sufficient to cause that population to pressure its leaders to capitulate to the terrorists demands. To achieve this goal, the typical terrorist act involves actions that expose members of the target population to violent death or physical injury. Such acts, therefore, violate the criminal codes of all American jurisdictions. The following table depicts concerns within each area of the

American criminal justice system that must be addressed if the system is to adequately prepare for effective responses to future terrorist crimes. By no means is this a comprehensive list. It does, however, illustrate the scope and complexity of the task facing local, state, and national leaders.

Topic : The Future Of Criminal Justice

Topic Objective:

At the end of this topic student would be able to:

- Describe the historical relationship between technological advances and social and cultural changes.
- Explain the nature of high-technology crime, and list some forms that such crimes have taken in the past and that they might take in the future.
- Explain the important role that technology has played, and will continue to play, in the fight against crime and the quest for justice.
- Explain why laws defining criminal activity must change to keep pace with advancing technologies.
- Provide an overview of criminalistics, and explain how evolving technology contributes to advances in that field.
- Identify the threats to individual rights inherent in the ever-increasing use of advanced technology.

Definition/Overview:

The final topic of the textbook focuses on issues critical to the future of the criminal justice system as it adapts to social, political, and cultural changes in society. In addition, as the level of technological sophistication in society grows and expands, regulating and responding to crimes

that result from these changes become the responsibility of the criminal justice system. The topic begins with a discussion of various types of technocrimes. For example, it discusses biocrime and cybercrime. Biocrimes are those perpetrated through the use of some biologically active substance. Changes in technology have also provided opportunities to commit new types of crime. Any crime perpetrated through the use of computer technology is referred to as cybercrime. Offenders who hack computers, pirate software, engage in information piracy, destroy or manipulate data, and use computer technology to carry out theft of services are all committing cybercrimes.

Technological innovation is an important tool the criminal justice system uses to respond to crime.

For example, the field of criminalistics has a long and distinguished history. The text provides some early examples of the use of criminalistics with a discussion of the system of personal identification created by Alphonse Bertillon, the use of fingerprints to identify suspects, and the reliance on ballistics, forensic anthropology, forensic entomology, and voiceprint identification. Topic 18 also describes emerging technologies in criminalistics. Perhaps the most significant scientific advance in the last decade is the development of DNA profiling. DNA profiling is the use of biological residue found at the scene of a crime for genetic comparisons, aiding the identification of criminal suspects. DNA profiling has been used by law enforcement to identify suspects but also has assisted accused persons. For example, in a National Institute of Justice report titled *Convicted by Juries, Exonerated by Science*, researchers describe 28 cases of defendants who were released from prison after DNA tests established their innocence. Other emerging technologies discussed in Topic 18 include online clearinghouses, computer-aided investigations, and computer-based training. The last section of Topic 18 focuses on technology and individual rights. It focuses on the clash between fighting crimes committed with new technology and protecting individual rights.

Key Points:**1. How Advances in Technology Affected Society and Culture**

Old concepts of crime and criminality have undergone significant revision as a result of emerging technologies. Science fiction-like products that are now readily available either legally or on the black market have brought with them a plethora of possibilities for new high-stakes crimes. The well-equipped, technologically advanced offender in tomorrow's world will be capable of attempting crimes involving dollar amounts undreamed of only a few decades ago, and the potential for crime-caused human suffering will rise astronomically. The relentless advance of globalization will combine with powerful technologies to produce a new world of challenges for criminal justice agencies. Domestic and international terrorism, highly organized transnational criminal cartels, and changing social values will evolve into a challenging complex tangle of legal, technological, and social issues. Advances in technology can ignite social changes. These advances affect how people interact, communicate, learn, and profit. Such advances are likely to continue, and society will continue to evolve because of the changes.

2. High-Technology Crime

High-technology crimes focus on offenses that use advanced and emerging technologies. Biocrime, cybercrime, and bioterrorism are just a few examples of the new kinds of crimes created because of technological advances. Many high-tech crimes are simply old wine in new bottles. Historically, criminals of all types have shown remarkable resourcefulness in adapting technological advances to their criminal pursuits. The recent surge of high-quality counterfeiting wrought by the advent of the color laser printer is a typical example. Similarly, theft, fraud, intimidation, and vandalism are age-old crime problems. Advances in technology have just provided new opportunities to use computers and other types of technology to commit these crimes. In response, the crime-fighting abilities of police agencies will be substantially enhanced by cutting-edge surveillance and enforcement technologies and by international and interagency cooperation. A massive infusion of funds will be needed to support the adoption of new crime-fighting technologies, and the hiring and training of sophisticated personnel able to operate in multicultural environments will be necessary to allow tomorrow's enforcement agencies to compete with technologically adept criminals of global reach.

3. How Technology Affected the Practice of Criminal Justice in America over the Past Century

One hundred years ago, American police officers walked beats or rode horses and communicated by whistles and shouts. Criminal investigation was less scientific than intuitive, court cases were often resolved more on the popularity of the defendant than on the weight of the evidence, and American prisons were bleak edifices immersed in the industrial prison era. Today, American police officers walk beats or ride horses or use automobiles, motorcycles, bicycles, boats, or aircraft. They have instant communication with other patrol members, their leaders at the precinct or departmental headquarters, the mayor, the governor, the Pentagon, or the president, if necessary, via an incredible communications network using satellite and computer communications. All manner of forensic and scientific resources remove guesswork from criminal investigations. Court cases are far more informed by precedent and constitutional considerations than ever before, but they are also often strongly influenced by the economic status of the accused.

4. Criminal Laws and Changes in Technology

Criminal behavior evolves as technology evolves. Many offenders use new technologies in order to commit crimes, and often such behaviors have not been previously defined as being criminal. Criminal laws must be changed or created to account for these changes. The Office for Technology Assessment of the U.S. Congress notes that What is judicially permissible and socially acceptable at one time has often been challenged when technology changes. When agencies of the justice system use cutting-edge technology, it inevitably provokes fears of a future in which citizens rights are abrogated by advancing science. Individual rights, equal treatment under the law, and due process issues all require constant reinterpretation as technology improves. However, because some of the technology available today is so new, few court cases have yet directly addressed the issues involved.

5. Interplay between Advancing Technology and Methods Used To Gather Evidence in the Fight against Crime

Criminalistics is the use of technology in the service of criminal investigation, the application of scientific techniques to the detection and evaluation of criminal evidence. Law enforcement and

other criminal organizations attempt to put new technologies to use in their fight against crime. Similarly, criminalists also use scientific and technological advances in any way they can to identify suspects. In this information age, the obvious threat is to the privacy of the individual. Many believe it is already too late because somebody, somewhere, has likely already created a comprehensive database containing your entire life in a thousand or so bytes. Here is an interesting scenario: A business competitor obtains damaging information about you, including evidence of your participation in a criminal activity. Seeking to eliminate you as a threat to his business, he posts the information on the Internet. A police investigator, after seeing the information on the Net, arrests you for the crime you committed. This scenario illustrates what lies ahead for investigators, courts, and ordinary citizens who may be victimized by the posting of false and malicious information that leads to their arrest. Technological advances will continue to yield dramatic improvements in all aspects of American life, including the functioning of the criminal justice system. But they also have tremendous potential for spawning nightmarish confusion that is incapable of being unraveled, with devastating consequences for the innocent. Although the crimes it faces may change, American criminal justice will remain recognizable through its backbone of subsystems: the police, the courts, and corrections. It will continue to rest on constitutional mandates and will be responsive to court precedent. Deterrence, apprehension, and reformation will continue to serve as the philosophical triad guiding the day-to-day operations of criminal justice agencies. New issues will arise, but most of them will be resolved within the context of the question that has guided American criminal justice since its inception: How do we ensure public order and safety while guaranteeing individual rights and social justice in a free society?

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