Criminal Justice 101

CRIMINAL JUSTICE 101

A FIRST COURSE

RICHARD C. SPRINTHALL
JOHN J. DEFRANCESCO
ALTHEA LLOYD

Universal-Publishers
Boca Raton

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typos. And typos can be dangerous. That's why you have to be especially careful reading health studies. You might die of a misprint.

Richard C. Sprinthall
Professor of Psychology, Emeritus
Department of Graduate Psychology
American International College

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John J. DeFrancesco
Professor of Psychology and Criminal Justice
Department of Graduate Psychology
American International College

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Althea Lloyd, Esq.
Integrated Domestic Violence Docket Regional Program Coordinator
Windham Superior Court
Brattleboro, Vermont

TABLE OF CONTENTS

PREFACE

When you picked up this criminal justice textbook you might have noticed that it was a bit smaller and lighter than some of your other introductory texts. We did that on purpose! Whereas other texts may be 15 or 20 chapters long we made ours only 12. We believe that all of our chapters can be comfortably covered in one semester. You will soon also notice that we attempt to present and explain our materials, as much as possible, in an easy to read conversational style. We try to stay away from jargon and other esoteric (understood only by a few) terms and when we can't, we define them for you. Most chapters also contain a "Person of Interest" section and a "Case Study" along with a comprehensive "Summary," a set of "Key Terms," and a "Reference List." An extensive "Glossary" is also provided at the end of the text. One more thing, we attempted to write a real "introductory" book. That is, a book that will expose you to some of the basic and fundamental aspects of criminal justice and not a book that a beginning law school student might use.

Ok, so let us talk about criminal justice. You are likely taking this class because you are a CJ major but some of you might be taking this course because you are thinking of becoming a CJ major, have an interest in CJ, or taking it as an elective, (or maybe your advisor registered you by mistake)!

Well, if you are interested in working in the criminal justice field you should be happy about your future prospects. The field is varied and the types of positions available are many. Publications such as the Occupational Outlook Handbook published by the U.S. Bureau of Labor Statistics indicate that careers in the criminal justice field are projected to grow for the foreseeable future. For example, jobs as police officers, detectives, and correctional officers are estimated to grow 5% until 2022; security positions including gaming surveillance officers will grow 12%; forensic technicians 6%; attorneys 10%; paralegals and legal assistants 17%; criminal justice professors 19%. Further, Federal agencies such as Homeland Security are also looking for law enforcement, security, and prevention professionals. We can keep going but I think you get the drift.

This is certainly an interesting time for those with a criminal justice education. The demands are many and the challenges endless: terrorism, extremism, and cyber-crime; violence in our schools, colleges, and communities; white collar and corporate fraud; the never-ending war on drugs; domestic violence; child abuse, and neglect; immigration concerns; police and law enforcement issues; prison overcrowding; juvenile delinquency and this list goes on.

As you can see, the opportunities in the wide open criminal justice field are many. It can be a tough job but a tremendously rewarding career. As a beginning student, it is our hope that this text will help to pique your interest and ignite your passion.

CHAPTER 1

WHAT IS THIS THING CALLED CRIMINAL JUSTICE?

The Dilemma

What is this thing called criminal justice? Is it, as some have scoffingly suggested, just an oxymoron (contradiction in terms), like "jumbo shrimp," "pretty ugly," "elementary rocket science," or "barely dressed." Let's think about it. Is true criminal justice an impossibility? On one side are those who argue that criminal justice is impossible, that the criminal can never really find justice in our controlled and rigged society. On the other side are those who suggest that justice is not always being fully served, that many judges are too easy, and that many criminals, save for an occasional slap on the wrist, are in effect getting away with it. Society wants a court judge who will make the punishment fit the crime, as was true for the guy who stole a calendar and got one year. Go ahead and groan. These conflicting views are in reality a summary of what the criminal justice dilemma is all about: balancing the safety and security of society against the rights and privileges of the individual.

Criminal Justice Defined

Criminal justice as a discipline can be defined as the government's system of institutions that are primarily directed toward societal protection within the confines of individual rights. The three major components of the system are referred to as the three Cs. 1. Cops (Enforcement), 2. Courts (Adjudication), and 3. Corrections (jails, prisons, probation and parole). As you can see, the criminal justice system is an essential part of any free society. For an organized society to operate at all effectively it must provide the citizenry with safety and security, so that persons can live their lives without being in constant fear. The government is, therefore, charged with ensuring "domestic tranquility." At the same time, the individual must be protected from arbitrary and capricious societal rules and pressures that might deny personal freedom. The citizenry should feel that the system will be fair as well as protective. Thus, the criminal justice system must balance the needs of society vs. the rights of the individual, a delicate balancing act that demands constant scrutiny and supervision. The more secure the society, the less the individual liberty, and the more the individual liberty the less secure is society.

Let's look at two examples that highlight the delicacy of the undertaking,

1. Miranda Rights, and
2. Scientific Jury Selection.

Miranda

The Miranda rights were adopted back in 1966 to prevent law enforcement from over-stepping its role as the protector of society. The Miranda rule was aimed at ensuring that all detained suspects would be told up-front that they don't have to tell the police anything that might be incriminating, and also that they are entitled to legal counsel. Remember, however, that this only applies when the suspect is in custody. If a suspect voluntarily agrees to questioning, and clearly understands that he/she is NOT under arrest, no Miranda warnings have to be given. The Miranda rights were instituted to ensure conformity with the Fifth Amendment to the United States Constitution, which acts as a protection against self-incrimination. It is also based on one provision of the Sixth Amendment of the United States Constitution, which says that all suspects have the right to counsel (lawyer). We have all seen TV shows where one of the officers says to his partner, "Go ahead, and read him his rights." And these rights are as follows: "You have the right to remain silent. Anything you say or do can and will be held against you in the court of law. You have the right to speak to an attorney. If you cannot afford an attorney, one will be appointed for you. Do you understand these rights as they have been read to you?" The officer then says, "Having these rights in mind, do you still want to talk to us?" Once the suspect acknowledges an understanding, he/she is said to be "Mirandized." This whole issue comes from the arrest of Ernesto Arturo Miranda who argued that his rights had been violated while being questioned during his arrest for the kidnapping and rape of a young woman in Phoenix, Arizona. He had admitted to the charges, but based on a Supreme Court decision the confession was later ruled out because he had not been informed of his right to remain silent. Interestingly enough, when Miranda was retried, he was found guilty anyway, even without his previous self-incrimination. This time he got a 20-year sentence that was later reduced to 10 years. Once free he got into a bar fight and was murdered, and irony of all ironies - his assailant invoked his Miranda rights and was never convicted.

The Exceptions

There are two exceptions to the Miranda rule.

1. When a suspect provides information while in a situation that is threatening to the safety of the police officers or the public, as in asking the suspect where his armed accomplice is currently hiding, or where he placed the bomb.

2. When a suspect is accompanied by counsel. Thus, if a suspect is with a lawyer who can give advice during the questioning, then Miranda is waived. As one legal scholar has said "If the attorney is actually present during the interrogation, then this obviates the need for the warning" (LaFave, W.R. et al 2007, p 800)

Confession

If you ever find yourself in the position of being an interrogating officer, once you get a Mirandized confession, that is once you finally hear the words "I did it" then drop the questioning, excuse yourself and leave the room. Whatever you do, don't follow it up with "why did you do it?" All that does is open up the case to all kinds of twists and turns, including an NGRI (not guilty by reason of insanity).

When the Lawyer Intrudes

If you decide on a career in law enforcement you may someday find yourself in the position of investigating a crime and holding a suspect in custody. You may also receive a call from the suspect's lawyer who warns you not to talk to his/her client unless the lawyer is present. However, unless there are local statutes to the contrary, you may continue talking to a Mirandized suspect, with or without the lawyer's presence. "Neither Miranda nor the Sixth Amendment's right to counsel prohibits police interrogation of a willing suspect merely because his attorney has informed police that his/her client is not to be questioned" (Rutledge, 2011).

Casey Anthony

The dilemma posed by Miranda came to the forefront in the sensational 2012 trial of Casey Anthony who was charged with murdering her two-year old daughter, Caylee. Despite the evidence which seemingly supported a conviction, she was acquitted. And even if she had been convicted, the defense could have filed for a mistrial. During the trial, her defense attorney, Jose Baez, questioned detective Yuri Melich as follows:

Baez: Did you read her the Miranda rights?
Melich: No
Baez: Did you tell her she was free to leave?
Melich: No
Baez: Did you tell her she can stop talking at any moment and you'll take her home?
Melich: No

The prosecution then said that the reason she wasn't Mirandized was because when she was picked up and questioned she was not considered to be a true suspect. The defense pointed out that since she was placed in the caged back- seat of a police car and even handcuffed, it was legally a custodial interview (i.e., she was in police custody at the time of the questioning). The public outrage following her acquittal, including death threats, would have been even more vitriolic had there been a conviction and then a Miranda mistrial had been ruled. As it was, authorities were so concerned with her safety that when she was released from confinement several black SUVs with tinted

windows were used to take her from the jail to a secret destination and the hordes of reporters and TV trucks could not tell which vehicle contained Ms. Anthony.

Scientific Jury Selection: Forensic Trial and Error?

The famous defense attorney, Clarence Darrow (the model for the role of Billy Flynn in the musical "Chicago") once said "every case is won or lost as soon as the jury is sworn" (1936). Although probably somewhat of an exaggeration, history tells us that Darrow knew how to pick a sympathetic jury. Darrow never used any scientific methods, just his own hunches, intuition and common sense. His oratory was considered to be classic, and in one of his theatrical summations he even moved the judge to tears. He successfully handled many high-profile cases, and he did not hire any expensive jury experts to aid in making his juror decisions. And when his instincts let him down and the wrong juror was selected, it is alleged that he sealed the deal by the use of old-fashioned bribery (Farrell, J. A., 2011). Darrow literally flew by the seat of his pants. That has all largely changed. Today SJS (Scientific Jury Selection) has become a multi-million dollar business that appears to be getting bigger with every passing day. Although there are some exceptions, the vast majority of the SJS consulting firms are operated by psychologists, especially forensic psychologists, who use their knowledge of personality, demographics, group dynamics and even common prejudices to zero in on jurors who would be the most sympathetic to their clients. The issue then becomes whether these scientific intrusions really disturb that important balance between the security of society and the rights of the individual.

Dr. Jo-Ellan Dimitrius

Perhaps the most famous and successful of these jury consultants is Dr. Jo-Ellan Dimitrius. She has been involved in almost 700 trials, and she is so good that she has taken cases that were slam-dunks for the opposition and turned them into upset victories. And she doesn't just work one side of the street. She has provided juries for both the prosecution and the defense (Dimitrius, 1998). Her jury selection techniques occur during what is called "voir dire" a process to be explained a little later in the book. It's during voir dire that she works her magic. Let's look at two of her cases, Rodney King and O.J. Simpson.

Rodney King

In 1991 in Los Angeles California the police spotted a car being driven erratically and attempted to stop the vehicle. The driver, Rodney King, failed to pull over, and a dangerous high-speed chase ensued. When the police finally stopped him, King resisted being restrained, and the police used overwhelming force to subdue him. All of this was caught on videotape, and the world was shown the spectacle of the police beating up on a black motorist. The

police officers were tried in court on a brutality charge, but once the jury was scientifically selected by Dr. Dimitrius, the verdict was to acquit the officers. As an aside, before his death (drowning in his own swimming pool at 3 A.M.) King acknowledged that his various civil suits netted him over three million dollars.

O.J. Simpson: Justice by Rhyme?

O.J. Simpson was a retired professional football player who was charged in 1997 with the vicious murder of two people, his wife Nicole, and her friend, Ronald Goldman. The prosecution's evidence seemed to be overwhelming, and it didn't appear that Simpson had any chance of getting off. However, one of the pieces of evidence was a shrunken, blood-soaked glove that had been used in the murders, and the courtroom was treated to the scene of O.J. Simpson struggling mightily to put it on. The defense team, led by Johnny Cochran, gave the jury something to hang on to by repeating the lyric, "If it don't fit, you've got to acquit." Prior to this Dr. Dimitrius had done her work extremely well, and using her big-five selection criteria, race, education, income, age and gender, she was able to select a jury so sympathetic to Simpson that the prosecution's evidence became almost secondary. Simpson was acquitted. Dr. Dimitrius was so acclaimed that it was said that whenever a sympathetic jury was selected it was being "OH-JAYED".

A PERSON OF INTEREST: JO-ELLAN DIMITRIUS

Called the "Seer" by her colleagues and by the American Lawyer magazine, Jo-Ellan Dimitrius has demonstrated an almost uncanny ability to analyze people and predict and anticipate their behaviors. She is what is called a "Scientific Jury Consultant", someone who uses scientific methods to select jurors most sympathetic to their clients, in both criminal as well as civil cases. She has been involved in the selection of over 10,000 jurors, and has analyzed the credibility and psychological profiles of countless witnesses.

She also works with potential witnesses and prepares them for court testimony. She has worked for the defense in many of the highest profile criminal cases, such as those of O.J. Simpson and Casey Anthony. She is an expert in analyzing a prospective juror's personality, attitudes and prejudices, and her analyses form the basis for predicting how a given juror will vote.. Currently she serves as president of the trial-consulting firm, Vinson and Dimitrius. She has appeared on literally dozens of TV shows, such as Oprah, Good Morning America, The Today Show, Larry King Live, Face the Nation, Sixty minutes and Burden of Proof. She is the author of two important books, "Reading People: How to Understand People and Predict Their Behavior" (2008) and "Put Your Best Foot Forward" (2001).

Cognitive Dissonance and the Jury

There is an important concept in psychology that the trial consultants rely on, called cognitive dissonance, and the term is used to understand and explain what happens when an individual gets conflicting thoughts and/or conflicts between thoughts and deeds. Studies show that people strive to achieve a state of equilibrium among their various thoughts, attitudes, beliefs and behaviors. That is, people prefer consistency, or consonance, over inconsistency, or dissonance. Thus, whenever a person has a thought that is not consistent with behavior, or several thoughts and attitudes that conflict with each other, the person is motivated to restore the equilibrium. That is, the person attempts to avoid the internal contradictions by either changing the thought to fit the attitude, or changing the behavior to fit the thought. For example someone who enjoys smoking and who reads that smoking is a health hazard can either conclude that the evidence linking smoking with disease is flimsy, or stop smoking. It has been alleged that one smoker became so nervous after reading the evidence linking smoking with cancer that he gave up reading! This phenomenon of cognitive dissonance is extremely important within the minds of the empanelled jurors. Studies conducted by SJS psychologists support the notion that the thought process of most jurors actually involves the creation of their own stories, sometimes rather fanciful stories, to explain to themselves the reasons underlying the actions of the accused. This does not mean that jurors pay no attention to the details of the case being presented, but it's the interpretations of these details that finally influences their decisions. In fact, studies also show that a large percentage of what the jurors remember had never even been included in the testimony, but created in the juror's own mind in an attempt to reduce the cognitive dissonance by making the events seem more reasonable and consistent with their own personal attitudes and beliefs (Hastie & Pennington, 1983). Also, it is interesting to note that the physical attractiveness of both the defendant and the juror creates an interplay that can affect the decision. In general, it has been found that attractive persons were seen by jurors as more honest and trustworthy, and were therefore more apt to be found not guilty. However, when unattractive jurors are empanelled, they are more apt to side with the unattractive defendant. The scientific jury selector is also very wary of selecting people who are seen to be extremely wealthy or successful, because these are people who may exert too much influence on other jurors. Other variables used for possible juror exclusion are:

1. Anyone who has knowledge of the law or is in any way related to law enforcement.
2. Anyone with strong beliefs, such as total opposition to the death penalty in a murder case.
3. Anyone who is obviously very well educated.

As Schmalleger says "Often the system ends up with a jury that is uneducated, uninformed and inexperienced (Schmalleger, 2011).

Voir Dire

As was mentioned earlier, during jury selection there is a process called "voir dire" (French for "speak the truth"), and this is when the attorneys can challenge a juror on the basis of either (1) "just cause" or, (2) something called "peremptory challenge." This is when Dr. Dimitrius and other trial consultants really go to work and earn their big bucks.

1. Just Cause

A challenge for just cause has to specify the reason for the juror's exclusion. For example the argument could be made that a given juror should be excluded because of seemingly being biased or bigoted or in some way not totally impartial

2. Peremptory Challenge

A peremptory challenge is an automatic dismissal of a juror, and no reason has to be given. It is here that the science of jury selection goes into overdrive, because with these challenges nobody has to know what possible social, psychological, or demographic variables have been used. The attorney may feel that a potential juror's hair style is somehow indicative of an underlying attitude, but the important point is - it doesn't have to be explained. An interesting case involving hair style occurred when one of the prospective jurors in the 2004 Scott Peterson murder case came to court flaunting both her tattoos and her ever-changing hair color. Each day she would show up with hair of varying shades of red. She became known by both prosecution and defense as "Strawberry Shortcake," and although the prosecution at first didn't want her, the jury consultant insisted that she would support a conviction….. and she did! Peterson was convicted.

Death Qualified Jury

Finally, in capital cases the jury can be selected on the basis of being "death-qualified." In the case of Witherspoon v. Illinois, 391 U.S. 501 (1968) it was ruled that in homicide cases the jury should not be composed of persons who are categorically opposed to the death penalty or, on the other hand, totally opposed to considering life imprisonment. Such a procedure is often called "Witherspooning" the jury. Prospective jurors who would not even consider the death penalty can be excluded during voir dire. The trial consultants sometimes have to peel away the veneer of a juror's public posture in order to get at the underlying attitudes and motives. Defense attorneys tend to believe that this process favors the prosecution.

The Dilemma Revisited

So that's the dilemma. As you have now clearly seen, at times the system seems to favor the defendant at the expense of society, and at other times the balance seems to swing toward society at the expense of individual rights and freedoms. Keeping these two powerful and yet opposing forces in careful

balance is the real job of the criminal justice system. Someday this may become your job.

Time Out to Think

The United States Constitution has ten amendments, called the Bill of Rights. The Constitution and the Bill of Rights will be covered in some detail in a later chapter on our country's legal system. In this chapter we will look briefly at parts of only three of these Rights, the fourth, fifth and sixth, and then try to use them to determine the possible outcome of some important and fairly recent cases.

The Fourth Amendment

The Fourth Amendment states that law enforcement may NOT conduct a random search and/or seizure. In order to search for or seize possible evidence of any unlawful activity, there must be what is called "probable cause" (reasonable suspicion) as a valid reason for the search procedure. This usually involves obtaining a warrant. Since the terror attack on 9/11, there are emergency exceptions, such as being thoroughly searched before boarding a plane or cruise ship.

The Fifth Amendment

Among other things, the Fifth Amendment guarantees that the individual will be given "due-process protection." That is government actions must be guided by the "Rule of Law" not just by some government official's opinion. This was used to protect the individual from over-zealous prosecution by government officials. The Fifth Amendment states that an individual does not have to

1. Give self-incriminating statements
2. Be tried for the same crime twice
3. Be deprived of life, liberty or property without due process.
4. Be convicted on the basis of unreliable evidence

The Sixth Amendment

In this Amendment the individual is given the right to a public trial by a jury of one's peers and to have the advice of counsel for the defense. The individual also has the right to be told the nature of the accusations and to be able to confront the accuser.

The Case Studies

The following lists six important cases, all six having been ruled on by the United States Supreme Court. Read them carefully and then spend a few minutes thinking about each one and then trying to determine how you would have voted if you were a Supreme Court justice. Also think about whether you believe they lean basically toward individual rights or societal

security. If you find later that you guessed wrong on how the Supreme Court voted, don't be dismayed. This exercise is designed to having you think about some important cases and how they relate to the Fourth, Fifth and Sixth amendments to the U.S. Constitution.

1. The Brady Error

John Brady and a friend were both charged with homicide in connection with an armed robbery that went amiss. They were arrested together but later tried separately. Brady pleaded guilty to being an accomplice but argued that he wasn't the one who actually pulled the trigger and therefore should not be sentenced to death. However, the court did not find his argument to be compelling and he was therefore convicted and sentenced to death. When Brady and his attorney later found out that the accomplice had previously admitted to the police that he was the killer, and that this information was withheld from Brady, an appeal was set in motion. The state's (Maryland) court of appeals upheld Brady's conviction but did not affirm the death sentence. The case then went to the U.S. Supreme Court.

2. The Terry Stop

John Terry and two of his friends were seen casing a store prior to what appeared to be an attempted robbery. A Cleveland police detective watched for almost 15 minutes as Terry and his buddies went through their dress rehearsal. The detective then accosted the three suspicious-looking men and found that both Terry and one of his accomplices were carrying concealed weapons. Terry's attorney argued that the fact that guns were being carried should not be used in court because the police had violated Terry's fourth amendment right against unreasonable search and seizure, and that because of this invasion of privacy any evidence confiscated (the hand guns) could not be used by the prosecution. The case was then brought before the U.S. Supreme Court.

3. The Mapp Ruling

On the basis of a police tip, two women living in Cleveland, Dollree Mapp and her daughter, were thought to be harboring a possible terrorist who may have been involved in a series of nearby and recent bombings. The police went to the Mapp home and ordered that they be given entry. Ms. Mapp adamantly refused to open the door and demanded that the police should first show their search warrant. The police did not actually have a warrant, but they broke into the house anyway and showed Mapp what actually later turned out to be a fake warrant. The police did not find their bombing suspect, but they did find a cellar full of illegal pornography of all types and forms. In her defense she said she didn't even know the offensive material was in her house and therefore it must have been left by a previous occupant. Ms. Mapp was taken to court and then convicted of possession of obscenity,

a conviction that she and her attorney quickly appealed. The appeal ultimately found its way to the Supreme Court of the United States.

4. Due Process and Evidence Reliability

A trained Connecticut undercover state policeman, James Glover, was told by an informant that he could buy drugs from a man who lived at a certain apartment. Glover went to the third floor apartment of the address he was given and knocked on the door. A man answered the door, and held out his hand. The light in the hallway was adequate and the man was less than two feet away from trooper Glover. The officer handed him two ten dollar bills, and within minutes the man handed back two bags of a substance later identified by Toxicology as heroin. Trooper Glover then left the building and went to the police headquarters where he described the seller as being "approximately five feet eleven inches tall, dark complexion, black hair, short Afro style, high cheekbones and of heavy build." The description rang a bell with one of the officers who went into the records department and brought out a picture that seemed to fit Glover's description. When Glover saw the picture, he immediately said that it was the man who sold him the drugs. Later, in court, Glover again made a positive identification of the picture, and there was no objection. Glover also made a positive ID of the suspect himself, again with no objection. The suspect was convicted. Later he filed a petition of appeal and although the District Court upheld the decision, the Court of Appeals disagreed and reversed the decision maintaining that the photograph should have been excluded from the trial because it was not reliable evidence.

5. Iris Mena

Because of a drive-by-shooting, the police went to the home of Iris Mena who had rented out a room to a gang member (the apparent target). During the investigation of her home, the police detained Ms. Mena and asked her for her immigration papers. She complied and showed her papers, but later sued the police. Her argument was that the police had no reasonable suspicion of her being an illegal, and that this therefore violated her Fourth Amendments rights.

6. The Code of Federal Regulations (CFR)

Before leaving this section on some of the legalities found in the Bill of Rights, let us also consider **t**he Code of Federal Regulations that specifies the rules and regulations of the country's laws as they are to be **carried out** by the government. The CFR must be constitutionally sound and observe all legal precedents. Whereas the Bill of Rights was intended to protect the individual from the possible abuse of government power, the Federal code spells out the details of how federal law is to be enforced. Because of its importance in shedding light on the current immigration problem, our focus here will be

in Title 8, Section 1325, of the regulations which states: "Any citizen of any country other than the United States who enters or attempts to enter the United States at any time or place other than as designated by immigration officers has committed a federal crime, punishable by up to two years in prison".

7. Papers Please

The Governor of Arizona signed into law an immigration bill that, among other things, allowed the police to ask for a person's immigration papers when that person is suspected of being in the country illegally and in violation of the above shown Title 8, Section 1325. Thus, law enforcement officers can demand proof of a person's immigration status when that person is stopped, detained or arrested and there is a reasonable suspicion that the person is in this country without authorization. Opponents of the law contend that this is a blatant case of ethnic profiling and violates basic human rights. The issue was brought to the Supreme Court in Arizona et al v the United States (2012). How would you have voted? Do you think your vote leans toward the rights of the individual or the security of society?

Reasoning Time Out

Let's look at each of the above cases, and see which way you went. Would you have voted in favor of the accused? Also indicate whether your decision emphasizes the rights of the individual or the protection of society.

1. The Brady Error . In this case the Supreme court ruled that by not being informed of his partner's confession, Brady was denied due process. The withheld evidence in this case is called "exculpatory," which is evidence that is favorable to the defendant and that may even exonerate or justify the defendant's actions. Because of this decision, prosecutors are now compelled to seek out any exculpatory evidence and then hand it over to the defense. The prosecutor who fails to follow through on this is said to have committed the "Brady Error". Individual Rights or Protection of Society?

2. The Terry Stop. In case 2 the Supreme Court ruled that the police did have probable cause and were justified in both the detention and search of the men involved. The ruling was that whenever "a police officer observes unusual conduct which leads him reasonably to conclude in the light of his (sic) experience that criminal activity may be afoot, and the person with whom he is dealing may be armed and presently dangerous that he then can be detained and searched". Thus, today when there is reasonable suspicion, a suspect may be both detained and searched, now called a "Terry Stop".
Individual Rights or Protection of Society?

3. The Mapp Ruling . The Supreme court in this case ruled in Mapp's favor, arguing that in this case there was a clear violation of the 4th Amendments' ban on unreasonable search and seizure and also a violation of her 5th Amendment rights against self-incrimination. The court ruled that when the

"Fourth Amendment's ban against unreasonable search and seizure is considered together with the Fifth Amendment's ban against compelled self-incrimination, a constitutional basis emerges which not only justifies, but actually requires the exclusionary rule" (which is the rule that evidence gained illegally must be excluded from use by any law enforcement agencies). This is now part of the law of the land and guarantees that a criminal defendant may have evidence suppressed that was gained by violations of the Fourth and Fifth Amendments, now known as the "Mapp Ruling". Individual Rights or Protection of Society?

4. Evidence Reliability. This case also went to the Supreme Court, (Manson v Brathwaite, 1977), and by an eight to one vote, the original conviction was to stand. The Supreme Court said that since Glover was not a casual observer "but a highly trained police officer who had sufficient opportunity to view the suspect, accurately describe him, positively identify the photograph as that of the suspect, and made the photographic identification only two days after the crime." Individual Rights or Protection of Society?

5. Iris Mena.Although two lower courts ruled in her favor, when the case went to the Supreme Court, the previous rulings were reversed. In Mueller v Mena (2005) the Supreme Court ruled that the reasonable suspicion argument was not relevant in this case because Ms. Mena was already under detention during the time of the questioning. Therefore the conclusion is that authorities may question someone regarding name, age, date of birth and immigration status as long as the person is already under detention for other reasons. Individual Rights or Protection of Society?

6. The Supreme Court in Arizona et al v The United States (2012) ruled that the provision in the Arizona law that allows the police to demand proof of immigration status from a suspect who is reasonably thought to be in violation of the immigration law is constitutional and should be upheld. Individual Rights or Protection of Society?

Although your decisions may even have been preferable, those were the Supreme Court's decisions and they have been solemnly hallowed as the "Law of the Land"

*Some of the cases shown above were summarized in a series of excellent articles by Devallis Rutledge in the "Police Magazine". You are encouraged to read this magazine as often as possible, because it is full of extremely important information for anyone considering a career in criminal justice in general or law enforcement in particular. The column titled "Point of Law" is especially relevant.

A PERSON OF INTEREST: CLARENCE DARROW (1857-1938)

Clarence Darrow may still be America's most famous defense lawyer (the model for the role of Billy Flynn in the musical "Chicago"). His cases and victories are legendary, and he defended rich and poor alike. Perhaps his most famous quote is "every case is won or lost as soon as

the jury is sworn" (1936). And Clarence Darrow knew how to pick a sympathetic jury. He never used any scientific methods, just his own hunches, intuition and common sense, and his oratory is considered to be classic. In one of his theatrical summations it is alleged he even moved the judge to tears. Darrow successfully handled many high-profile cases, and he did not hire any expensive jury experts to aid in making his juror decisions. And when his instincts let him down and the wrong juror was selected, it is alleged that he sealed the deal by the use of old-fashioned bribery (Farrell, J. A., 2011). Darrow literally flew by the seat of his pants.

During his life time he was involved in some of the country's biggest and most notorious cases. He defended the two thrill-killers Leopold and Loeb, (1924), two very rich teen-agers who wanted to kill someone for the sheer joy of reducing their own boredom. He was also the lawyer for the defense in the Scopes trial (1925), also known as the "Monkey Trial", about which the movie "Inherit the Wind" was produced. Although the trial was intended to judge whether John Scopes, a high-school science teacher in Tennessee, had violated the law by exposing his students to Darwin's theory of evolution. In point of fact, it soon became obvious that it was really Darwin who was on trial. The prosecution sought out the oratorical skills of silver-tongued William Jennings Bryan, previously a Democratic candidate for the presidency of the United States. Darrow later became a leader in the ACLU (American Civil Liberties Union), and wrote a number of books on crime and its causes. He argued that there is no clear demarcation between the good and the bad, or right versus wrong, and that the blurry line between them is often arbitrary and shifting.

Criminal Statistics – Keeping Track of Crime – Numbing Numbers

The government provides two major sources for keeping track of criminal activity, crime rates and types of crimes committed in the United States, (1) the Uniform Crime Reports and (2) the National Crime Victimization Survey.

Uniform Crime Reports – UCR and the FBI

The F.B.I. collects information from local, state, and federal law enforcement agencies, and then in Part 1 of these Uniform Crime Reports, the data are organized into categories of what are called "Index Crimes" (the most serious and violent crimes)– (1). Murder,(2). Forcible Rape, (3). Robbery, and (4) Aggravated Assault. Then in Part 2, the UCR covers what are considered less serious crimes, called property or non-index crimes, such as (1). Larceny-Theft, (2). Motor Vehicle Theft , (3) Embezzlement, (4) Prostitution, (5) Forgery, (6) Counterfeiting, (7) Fraud, (8) Disorderly Conduct, (9), Stolen Property, (10) Vandalism , (11) Weapons Offenses, (12) Burglary. and (13) Vagrancy and/or Loitering. Although the data are reliable, they only cover

what law enforcement actually knows – that is, those crimes that have been reported to or detected by the police. The major criticism of the UCR is that there are some crimes that are never reported to the police, and therefore never appear in the UCR.

The FBI also gives us criminal time lines. For example, it was found that among Index crimes:

One murder every 31.5 minutes,
One forcible rape every 5.6 minutes,
One robbery every 1.3 minutes
One aggravated assault every 36.5 seconds

And then among Property crimes:

One burglary every 14.6 seconds
One larceny/theft every 4.7 seconds
One motor vehicle theft every 25.5 seconds

Don't read too much into those time lines. It may look as though crime is being metered out on a regularly timed basis. For example, finding out that murders occur every 31.5 minutes might cause someone to check his watch and decide not to leave home for several minutes in order to avoid that deadly time interval.

National Crime Victimization Survey (NCVS).

These data are collected by surveying representative samples of the population in order to find out information on crimes that have occurred but may never have been reported. The survey focuses on the following crimes: (1) rape, (2) robbery, (3) motor-vehicle theft, (4) larceny, (5) burglary and (6) assault (both simple and aggravated). The results of these surveys indicate that there are crimes that never get reported to law enforcement. The major criticism of the NCVS is that its data are virtually impossible to verify, since at least some of the survey responses may be concocted out of sheer fantasy.

Less Crime

Both of these data sources have consistently shown that crime rates in the United States have fallen sharply over the past 20 years. This is true of both the major crimes, the index crimes, as well as those of a less serious nature. Perhaps the increasing numbers of the population now incarcerated, on probation or parole may be playing a role in the reduced levels of crime. Or, perhaps the increased incarceration rate is due to a higher level of police efficiency. That is, it may be that increased vigilance and more effective police work have led to more arrests and convictions. Finally, it may be that today's judges are handing out longer sentences due to public outcry.

As a student new to the field of criminal justice, keep in mind that these two government sources, U.C.R. and N.C.V.S provide a treasure trove of data that are available to the criminal justice researcher.

The Statistics Vary by State

Incarceration rates do vary by state, with the highest rates occurring in Louisiana, Mississippi and Oklahoma, and the lowest rates in Maine, Minnesota, and New Hampshire. Also it should be noted that 92% of incarcerated felons are male.

White Collar Crime: More Money Stolen with a Pen than a Gun

Before going on to look at some of your career opportunities in law enforcement and/or criminal justice in general, let's take just a few moments to look at what has fast become one of the country's most serious problems – white collar crime. With the current wave of identity thefts and cyber- crimes, the spotlight has definitely turned toward the white collar criminal. Although white collar crimes, such as identity theft and fraud, are not considered to be one of the more serious index crimes, they can and do cost society huge amounts of money. This can be enormous money, such as a corporate accountant "cooking the books" and defrauding stock holders, or perhaps just a few hundred dollars, such as someone cashing your check after forging your name with your social security number. The phrase "the pen is mightier than the sword (or pistol)" was never more true than in the area of white-collar crime. Far more money has been stolen with a ball-point than at the point of a gun. Although the term "white collar crime" has been with us for decades (Sutherland, 1949), its cost to society has risen exponentially over the past dozen years, in part due to the cyber- crimes of the internet. And please never feel sorry for the white-collar thief, because he/she doesn't feel sorry for you. The following case study is a composite character made up of cases covered in "Outsmarting the Scam Artists" (Shadel, 2006)

CASE STUDY- Joey D.

I'm writing this just to pass the time of day, and I have a lot of time to pass and a lot of days to pass it in. I am a college drop-out who majored in accounting and quickly found out that for me things just didn't add up. I worked for H & R Block during tax season, but the rest of the time I just "collected." I am now a victim of California's illegal "three-strikes-and-you're-out" rule. I call it illegal because it is certainly cruel, and for me, highly unusual. I think it must violate some damned amendment. Anyway, I admit that when I needed extra cash I did break the law on occasion, but never anything serious or violent. I guess I did run a few scams. My first few cons were minor league as far as money was concerned, but I did have to do some jail time for each. My third and best con was when I set myself up in the "oil" business, and my sales area was from Los Angeles to San Francisco. I met my suckers by going to local churches, and getting names of parishioners. Then I'd go home and look them up on the net to see who's got anything I might use as an ice-breaking gambit, like "oh I saw on your Facebook page that you like fishing, and I also like fishing." I'd go back to the church and mingle