**Chapter One**

**Crime and Criminal Justice**

***Learning Objectives***

After completing this chapter, students will…

1. Discuss the formation of the criminal justice system in America.
2. Define the concept of a criminal justice system.
3. Identify the basic component agencies of the criminal justice system.
4. Comprehend the size and scope of the contemporary justice system.
5. Trace the formal criminal justice process.
6. Articulate what is meant by the term *criminal justice assembly line.*
7. Characterize the informal criminal justice system.
8. Describe the “wedding cake” model of justice.
9. Discuss the various perspectives on justice.
10. Understand the ethical issues involved in criminal justice.

***Lesson Plan***

*Correlated to PowerPoints*

**2-3**

# Introduction

## The criminal justice system

### The law enforcement, court, and correctional agencies that work together to effect the apprehension, prosecution, and control of criminal offenders.

#### These parties are charged with maintaining order, enforcing the law, identifying transgressors, bringing the guilty to justice, and treating criminal behavior.

## The criminal justice process

### The decision-making points, from the initial investigation or arrest by police to the eventual release of the offender and his or her reentry into society

**4-6**

### The various sequential criminal justice stages through which the offender passes.

# Developing the Criminal Justice System

# Learning Objective 1: Discuss the formation of the criminal justice system in America.

## The London Metropolitan Police was developed in 1829.

## The criminal justice system was first recognized in 1919, by the Chicago Crime Commission.

## The Wickersham Commission was appointed in 1931 to study the U.S. justice system, and it helped to usher in era of treatment and rehabilitation.

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| **Class Discussion/Activity**Discuss with students the statement “there is equal justice under the law, and everyone can expect to get their day in court.” Is this statement myth or reality?  |

## The modern era of justice

### The modern era of justice can be traced to a series of research projects begun in the 1950s.

### The term “criminal justice system” was first used in the 1950s to describe the view that justice agencies could be connected in an intricate yet often unobserved network of decision making processes.

## Federal involvement in criminal justice

### President’s Commission on Law Enforcement and Administration of Justice was appointed by President Johnson in 1967.

### Passage of the Safe Streets and Crime Control Act of 1968

#### Helped launch massive campaign to restructure criminal justice system

#### Provided funding for the Law Enforcement Assistance Administration (LEAA)

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| **Class Discussion/Activity**Discuss with students the importance of federal funding for the criminal justice system.  |

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|  See Assignment 1 |

# The Contemporary Criminal Justice System

# Learning Objective 2: Define the concept of a criminal justice system.

# Learning Objective 3: Identify the basic component agencies of criminal justice.

# Learning Objective 4: Comprehend the size and scope of the contemporary justice system.

 **7-9**

## The criminal justice system is society’s instrument of social control.

### Its agencies are political entities whose structure and function are lodged within the legislative, judicial, and executive branches of government.

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| **Class Discussion/Activity**Ask students to read about the police, courts, and corrections on page 9 in your textbook and discuss how these agencies divide responsibilities and how they work together.  |

## The criminal justice system can be divided into three main components: law enforcement agencies, court agencies, and correctional agencies.

## Criminal just costs federal, state, and local government more than $250 billion per year.

## Criminal justice system employs more than 1.1 million people.

## Today, almost 7 million people are under some form of correctional supervision.

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| **Media Tool**Watch the video “The Drug War and Mass Incarceration by Numbers” <http://www.youtube.com/watch?v=FWhDK-dPRp0>* The news show by RIA talks about the impact of the drug war on rising incarceration rates.
* Discussion:
* What are the unintended consequences of the high incarceration rates?
* Which alternatives to incarceration may be helpful to alleviate these unintended consequences?
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| **Class Discussion/Activity**Many states have decriminalized or even legalized marijuana use. Ask students their opinions concerning these recent state actions regarding marijuana. What advantages and disadvantages might they anticipate? |

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|  See Assignment 2 |

# The Formal Criminal Justice Process

# Learning Objective 5: Trace the formal criminal justice process.

# Learning Objective 6: Articulate what is meant by the term *criminal justice assembly line.*

**10-11**

## Few cases are actually processed through the entire formal system.

## A comprehensive view of the formal criminal process normally includes:

### Initial contact

### Investigation

### Arrest: in-presence requirement

### Custody

### Charging

#### May result in *nolle prosequi*

### Preliminary hearing/grand jury

#### May involve a true bill of indictment, information, probable cause hearing

### Arraignment

### Bail/detention

### Plea bargaining

### Trial/adjudication

### Sentencing/disposition

### Appeal/post-conviction remedies

### Correctional treatment

### Release

### Postrelease

 **12**

## The criminal justice assembly line

### Herbert Packer sees each stage of criminal justice process as a decision point through which cases flow.

### About 30 percent of people arrested on felony charges are eventually convicted in criminal court.

### Almost one-third of convicts are released back into the community without having to do time in prison.

### For every 1000 crimes, about 20 people are sent to prison.

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| **Class Discussion/Activity**How close to reality crime are shows such as CSI and Law and Order? How is real life different from these TV shows? |

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| **Class Discussion/Activity**Discuss the advantages and disadvantages of the *assembly line*. Ask students to think about whether the assembly line is an advantage for offenders. Why or why not?  |

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|  See Assignment 3 |

# The Informal Criminal Justice Process

# Learning Objective 7: Characterize the informal criminal justice system.

# Learning Objective 8: Describe the “wedding cake” model of justice.

**13-16**

## Many cases are settled in an informal pattern of cooperation between the major actors in the justice process.

## The courtroom work group is made up of prosecutor, defense attorney, judge, and other court personnel.

## The courtroom work group functions to streamline the process of justice through the use of plea bargaining and other alternatives.

## Upwards of 80 percent of all felony cases and over 90 percent of misdemeanors are settled without trial.

## The “wedding cake” model of justice

### Samuel Walker describes the informal criminal justice process as a four-layer wedding cake.

### Layer I involves celebrated cases (e.g., James Holmes because of the number of victims and O.J. Simpson because of his wealth and fame).

### Layer II involves serious felonies (e.g., rape, robbery, burglary).

### Layer III involves less serious felonies, offenses committed by young or first-time offenders, or involves offenders known to one another or were otherwise related (eg. domestic violence).

### Layer IV involves misdemeanors (e.g., disorderly conduct, shoplifting, public drunkenness, minor assault).

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| **Class Discussion/Activity**Discuss the domestic charges against Ray Rice, an NFL football player who was videotaped knocking out his then-fianćee in an elevator. The charges were eventually dropped. Have students to form small groups and discuss the perceptions of bias in the criminal justice system regarding issues of fame, wealth, or social status. Identify a student from within each group to summarize their perceptions.  |

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|  See Assignment 4 |

# Perspectives on Justice

# Learning Objective 9: Discuss the various perspectives on justice.

**18-25**

## Significant debate continues over the actual meaning of *criminal justice* and how the problem of crime should be approached.

## Crime control perspective

### Argues that the proper role of the justice system is to prevent crime through judicious use of criminal sanctions

### Believes that legal technicalities should not help the guilty go free

### Questions the criminal justice system’s ability to rehabilitate offenders

### Proposes that the more efficient the system, the greater is its effectiveness

## Rehabilitation perspective

### Sees the justice system as a means of caring for and treating people who have been the victims of social inequality

### Assumes that people are at the mercy of social, economic, and interpersonal conditions and interactions

### Believes that government treatment-oriented programs can help reduce crime at both a societal and individual level

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| **What If Scenario**What if you were the judge in a burglary case, in which the defendant stole a TV? The burglar broke into a house during the day, after he had confirmed that nobody was home. The burglar has been burglarizing other homes, too. What punishment should the burglar receive? Describing your personal perspective on crime. Following, select one of the perspectives included in the text book chapter (crime control, rehabilitation, due process, nonintervention etc.) and describe why they identify with their chosen perspective.  |

## Due process perspective

### Argues that the greatest concern of the justice system should be providing fair and equitable treatment to those accused of crime

### Points out that justice system remains an adversarial process

### Believes that every person deserves full array of constitutional rights and privileges

## Nonintervention perspective

### Believes that justice agencies should limit their involvement with criminal defendants

### Concerned about effect of stigmas and labels on criminal suspects

### Tries to place limitations on government’s ability to control people’s lives

### Calls for decriminalization and/or legalization of non-serious victimless crimes

### Calls for deinstitutionalization

### Support pretrial diversion for first offenders

## Equal justice perspective

### Argues that all people should receive same treatment under the law

### Has had considerable influence in molding nation’s sentencing policy

### Proposes that decision making in the justice system must be standardized and structured by rules and regulations.

### Advocates the reduction and control of individual discretion

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| **Media Tool**Watch the video “Growing number of inmates found innocent in U.S. Prisons” at <https://youtu.be/msdIQ5Mji1M>* The News Channel RTAmerica discusses the recent exoneration of criminals criminal. RT's Manuel Rapalo takes a look at the reasons behind the large number of individuals being released, including the rise of the conviction integrity unit (CIU), specialized long-term projects that work to overturn wrongful convictions.
* Discussion: What criminal justice system issues are involved in making sure that people are not wrongly convicted?
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## Restorative justice perspective

### Argues that the true purpose of the criminal justice system is to promote a peaceful and just society

### Resolution of conflict between criminal and victim should take place in the community in which it originated.

### Aim to enable offender to appreciate the damage, make amends, and be reintegrated back into society.

## Perspectives in perspective

### Advocates of each view attempt to promote their vision of what justice is about and how it should be enforced.

### No single view is the right or correct one.

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| **Class Discussion/Activity**Why do innocent people get sentenced to prison? How could this be prevented? Should someone be held responsible for the conviction of the innocent?  |

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|  See Assignment 5 |

# Ethics in Criminal Justice

**26-28**

# Learning Objective 10: Understand the ethical issues involved in criminal justice.

## Ethics today is an especially important topic considering the power granted to those in control.

## Moral ambiguity is often the norm in the environment of justice system personnel.

## Without ethical decision making, individual civil rights or personal liberties may suffer.

## Ethics and law enforcement

### Ethical behavior is particularly important in law enforcement because police officers have authority to deprive people of liberty.

### Police officers maintain considerable discretion over who to investigate, how far the investigation should go, and how much effort they should spend on the case.

### National organizations have produced model codes of conduct that can act as a behavioral guide.

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| **Class Discussion/Activity**Ask students to read about “Monitoring Sex Offenders with GPS technology: Liberty vs. Security” on page 23 of your textbook. Discuss the pros and cons of such use of technology.  |

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| **What If Scenario**Imagine you are an American college student who has been in a summer study program in the Middle East and is just returning home. As you go through security, you remove some flashcards with Arabic words on them, including words such as “bomb.” You are asked at the airport to step aside and follow the airport security officer into a separate room. The security officer asks you questions for five hours. He then tells you that you need to complete a series of security checks including biometric tests and DNA tests. Would you be offended? Would you be worried even though you haven’t done anything wrong? Explain how you would deal with the situation. |

## Ethics and the court process

### Prosecutorial ethics become tested when dual role of prosecutor causes him/her to experience role conflict.

### The defense attorney is often confronted with conflicting obligations to his/her client and profession.

## Ethics and corrections

### Ethical issues do not stop once the defendant has been convicted.

### Ethical considerations transcend all elements of justice system.

### Ethics are challenged by the discretion afforded to correctional workers and administrators.

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| **Class Discussion/Activity**With the recent lethal encounters between police and citizens, ask students to discuss the ethical issues that police have to confront when doing their jobs and dealing with the public.  |

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|  See Assignment 6 |

# *Lecture Notes*

When teaching an introductory criminal justice course, it is useful to discuss the concept of “justice” at the beginning of the semester. Once you lay the foundation of this idea, students can begin to consider the ways in which the criminal justice system does, or does not, dispense justice. Throughout the semester, the ideals and realities of the criminal justice system can be part of an ongoing discussion. Have students visit www.360degrees.org for several different views of the justice system.

It is useful to provide an historical overview of the crime and violence that has existed since the formation of our nation. This historical perspective will give students a basis for comparison when examining the elements of the current criminal justice system. The elements of the formal criminal justice process are very important to elaborate in this chapter as well. Students will need to understand the purpose, function and process of each component of the criminal justice system. Discuss the “criminal justice assembly line” as you elaborate how each stage of the process is a decision point.

Contrast the formal criminal justice system with the informal system to illustrate the professional workgroups and their roles in the process of justice. This will include a discussion of the “wedding cake” model of justice, best elaborated through the use of examples.

One of the most important sections of this chapter is the discussion of perspectives on justice. As you distinguish the main elements of these perspectives, students should be encouraged to think about the following:

* Which perspective is most closely aligned with our current criminal justice system?
* Which perspective most closely illustrates their individual perspective on justice?
* Which perspective illustrates the media’s representation of the criminal justice system?
* Which perspective (and its subsequent policies) may lead to a reduction in the crime rate?

Moral ambiguity prevails throughout the criminal justice system, so the discussion of ethics by various criminal justice personnel is very important. This topic can also raise some very interesting discussion questions about controversial issues such as the death penalty and/or racial profiling.

***Key Terms***

**criminal justice system:** The law enforcement, court, and correctional agencies that work together to effect the apprehension, prosecution, and control of criminal offenders. They are charged with maintaining order, enforcing the law, identifying transgressors, bringing the guilty to justice, and treating criminal behavior. (p. 6)

**criminal justice process**:The decision-making points from the initial investigation or arrest by police to the eventual release of the offender and his or her reentry into society; the various sequential criminal justice stages through which the offender passes. (p. 6)

**Law Enforcement Assistance Administration (LEAA)**: Funded by the federal government’s Safe Streets Act, this agency provided technical assistance and hundreds of millions of dollars in aid to local and state justice agencies between 1969 and 1982. (p. 8)

**social control**: The control of an individual’s behavior by social and institutional forces in society. (p. 8)

**in-presence requirement**: With a few exceptions, in order to make an arrest in a misdemeanor, a police officer must have witnessed the crime personally. (p. 10)

***nolle prosequi***: The term used when a prosecutor decides to drop a case after a complaint has been formally made. Reasons for a *nolle prosequi* include evidence insufficiency, reluctance of witnesses to testify, police error, and office policy. (p. 11)

**grand jury**: A type of jury responsible for investigating alleged crimes, examining evidence, and issuing indictments. (p. 11)

**true bill of indictment**: A written statement charging a defendant with the commission of a crime, drawn up by a prosecuting attorney and considered by a grand jury. If the grand jury finds sufficient evidence to support the indictment, it will issue a true bill of indictment. (p. 11)

**information:** Charging document filed by the prosecution that forms the basis of the preliminary hearing. (p. 11)

**probable cause hearing:** Term used in some jurisdictions for a preliminary hearing to show cause to a case to trial. (p. 11)

**courtroom work group**: The phrase used to indicate that all parties in the adversary process work together in a cooperatively to settle cases with the least amount of effort and conflict. (p. 14)

**crime control perspective**: A model of criminal justice that emphasizes the control of dangerous offenders and the protection of society. Its advocates call for harsh punishments as a deterrent to crime and support availability of the death penalty. (p. 16)

**rehabilitation perspective**: A view that the primary purpose of criminal justice is helping to care for people who cannot manage themselves. Crime is an expression of frustration and anger created by social inequality and can be controlled by giving people the means to improve their lifestyle through conventional endeavors. (p. 17)

**due process perspective**: Due process provides the basic rights of a defendant in criminal proceedings and the requirements for a fair trial. (p. 17)

**nonintervention perspective**: The view of criminal justice that emphasizes the least intrusive treatment possible. Among its central policies are decarceration, diversion, and decriminalization. In other words, less is better. (p. 18)

**decriminalization**: Reducing the penalty for a criminal act but not actually legalizing it. (p. 19)

**legalization**: The removal of all criminal penalties from a previously outlawed act. (p. 19)

**deinstitutionalization**: The policy of removing as many offenders as possible from secure confinement and treating them in the community. (p. 19)

**pretrial diversion**: A program that provides nonpunitive, community-based alternatives to more intrusive forms of punishment such as jail or prison. (p. 19)

**widening the net of justice**: The view that programs designed to divert offenders from the justice system actually enmesh them further in the process by substituting more intrusive treatment programs for less intrusive punishment-oriented outcomes. (p. 19)

**equal justice perspective**: The view that all people should be treated equally before the law. Equality may be best achieved through the control of individual discretion in the justice process. (p. 19)

**restorative justice perspective**: A view of criminal justice that advocates peaceful solutions and mediation rather than coercive punishments. (p. 20)

***Assignments***

1. Watch the ABC News Video “Jury Finds James Holmes Guilty in Colorado Theater Shooting After 13 Hours of Deliberation” at <https://youtu.be/vhXbk5WqPc8>. Research the case of the Denver movie shooter James Holmes. Prepare a two-page paper discussing what can be done to prevent such crimes. Is it possible for agents of the criminal justice system to identify potential killers such as James Holmes by creating a profile? If so, is it fair to monitor people before they commit a crime or is that a violation of civil liberties? [LO1]
2. Which criminal behavior patterns pose the greatest threat to the public? Should the justice system devote greater resources to combating these crimes? If so, which crime patterns should be emphasized? [LO2]
3. Define the terms “criminal” and “justice.” Do these terms go together? Does the American criminal justice system dispense “justice”? [LO6]
4. Research the case of serial rapist and former NFL player Darren Sharper and explain how the case moved through the formal criminal justice system. How is this case different from cases that are less famous? [LO5]
5. Read about the “Ethical Challenge” on page 26 in your textbook. After visiting the cited links, write an essay on the ethics of aggressive policing policies, especially when those policies involve minorities. Consider all sides of the issue. Visit the following site to read about an interesting law enforcement perspective on the issue: <http://www.theatlantic.com/business/archive/2015/07/aggressive-policing-quotas/398165/> [LO10]

***Answers To Review Questions In The Text***

1. Q: Can a single standard of ethics be applied to all criminal justice agencies? Or is the world too complex to legislate morality and ethics?

A: Ethics in criminal justice is an especially important topic today considering the power granted to those who control the justice system. Members of the system are granted the authority to exert power over people’s lives, to be society’s instrument of social control, and ultimately deny people their personal liberty on a routine basis.

Ethics transcends all aspects of the criminal justice system. Each discipline (police, courts, corrections) has specific issues related to ethics that shape decisions. It is fair to say that ethics revolves around doing what is right, doing what is fair and exercising discretion unique to the circumstances at hand. As an example, law enforcement may need to conduct investigation that focuses on a specific racial or ethnic group. Should the ability to investigate be hindered by legislation that prohibits “racial profiling”; when the profiling is being undertaken in the interest of justice? Or would it be better to approach the investigation doing what is right, what is fair while exercising sound discretion?

2. Q: Describe the differences between the formal and informal justice systems. Is it fair to treat some offenders informally?

A: The formal criminal justice system is comprised of an array of decision points that begin with arrest and end with release. Legal factors, including the seriousness of the charges, available evidence, and the suspect’s prior record, are usually considered legitimate influences on decision making. The system is structured and the defendant is usually moved through it in a manner similar to an assembly line.

The informal criminal justice system provides for wider discretion when managing an offender. The formal system is considered to be the “ideal” model of justice but it still merits concern and attention because it would be overly simplistic to assume that the system works the same way for every case. Each case presents a different set of circumstances, the offender, the victim, the location, the reason usually vary significantly. All of these circumstances influence how a case is processed. As an example, the police may arrest an offender but are willing to make a deal in order to gain the offender’s cooperation or the prosecutor may bargain with the defense attorney to gain a plea of guilty as charged in return for a promise of leniency.

When addressing whether or not it is fair to treat offenders differently, the following should be considered:

Nature of the crime

Offender’s prior record

Motive for the crime

Is there injury? Is there loss of life?

How is society best served?

3.Q:What are the layers of the criminal justice “wedding cake”? Give an example of a crime for each layer.

A: First Layer:The first layer of Walker’s model is made up of the celebrated cases involving the wealthy and famous, such as O. J. Simpson and Michael Jackson, or the not-so-powerful who victimize a famous person—for example, John Hinckley, Jr., who shot President Ronald Reagan. These cases tend to include the full array of the criminal justice procedures and protections. A celebrity murder case or a high profile extortion / kidnapping would fall under this layer.

Second Layer:The second layer contains serious felonies—rapes, robberies, and burglaries. Police, prosecutors, and judges all agree that these are serious cases, worthy of the full attention of the justice system. The seriousness of the offense places them in the Level II category:

* They are committed by experienced, repeat offenders.
* The amount of money stolen in a burglary or larceny is significant.
* Violent acts are committed by a stranger who uses a weapon.
* Robberies involve large amounts of money taken by a weapon-wielding criminal.

Third Layer: Though they can also be felonies, crimes that fall in the third layer of the wedding cake are either less serious offenses, committed by young or first-time offenders, or involve people who knew each other or were otherwise related. Level III (layer three) crimes may be dealt with by an outright dismissal, a plea bargain, reduction in charges, or most typically, a probationary sentence.

Fourth Layer: The fourth layer of the cake is made up of the millions of misdemeanors—disorderly conduct, shoplifting, public drunkenness, and minor assault—that are handled by the lower criminal courts in assembly-line fashion. Few defendants insist on exercising their constitutional rights, because the delay would cost them valuable time and money, and punishment is typically a fine or probation.

4. Q: What are the basic elements of each model or perspective on justice? Which best represents your own point of view?

A: Answers should include some or all of the following

* The crime control perspective is oriented toward deterring criminal behavior and incapacitating serious criminal offenders.
* The rehabilitation model views the justice system as a treatment agency focused on helping offenders. Counseling programs are stressed over punishment and deterrence strategies.
* The due process perspective sees the justice system as a legal process. The concern is that every defendant receives the full share of legal rights granted under law.
* The nonintervention model is concerned about stigma and helping defendants avoid a widening net of justice; advocates call for the least intrusive methods possible.
* The equal justice model is concerned with making the system equitable. The arrest, sentencing, and correctional process should be structured so that every person is treated equally.
* The restorative justice model focuses on finding peaceful and humanitarian solutions to crime.

5. Q: How would each perspective on criminal justice consider the use of the death penalty as a sanction for first-degree murder?

A: Answers should include some or all of the following

* The crime control perspective would view the death penalty as an appropriate and effective punishment for dealing with serious criminal offenders.
* The rehabilitation perspective would not have a favorable view of the death penalty as punishment as it supports rehabilitation and the two contradict each other to the extreme.
* The due process perspective sees the justice system as a legal process. Their concern is that every defendant receives the full share of legal rights granted under law. The death penalty is the most finite form of punishment and as such leaves little room to mitigate errors or unfair treatment. Advocates of due process believe democratic ideals take precedence over the need to punish the guilty offender and see fairness and accuracy as priorities. Because of the potential for errors in the criminal justice system, all cases must be scrutinized closely.
* The nonintervention model is concerned about stigma and helping defendants avoid a widening net of justice; these advocates call for the least intrusive methods possible. Advocates of this perspective would not support the death penalty as they seek to decriminalize offenses and deinstitutionalize and divert offenders.
* The equal justice model is concerned with making the system equitable. The arrest, sentencing, and correctional process should be structured so that every person is treated equally. Advocates would be reluctant to support the death penalty as there is no absolute way to assure that all offenders are treated equally for the same offense. Supporters seek to remove discretion in order to equalize how offenders are treated. Inconsistent treatment is viewed
* The restorative justice model focuses on finding peaceful and humanitarian solutions to crime. This perspective draws its inspiration from religious and philosophical teachings ranging from Quakerism to Zen. Advocates of restorative justice view the efforts of the state to punish and control as encouraging crime rather than discouraging crime. The violent, punishing acts of the state are not dissimilar from the violent acts of individuals. Therefore use of the death penalty as punishment is not supported.

6. What amendments to the Constitution are the most important for the administration of justice?

 A: Answers should include some or all of the following:

* Individuals in police custody are protected from unconstitutional abuse of police powers.
* The U.S. Constitution mandates that before a trial can take place, the government must first prove probable cause that the accused committed the crime for which he is being charged.
* Before the trial begins, the defendant will be arraigned, or brought before the court that will hear the case. At this time, formal charges are read, the defendant is informed of his constitutional rights (e.g., the right to be represented by legal counsel), an initial plea (not guilty or guilty) is entered, a trial date set, and bail issues are considered.
* An appeal may be filed if, after conviction, the defendant believes that his constitutional rights were violated by errors in the trial process.