

## The Criminal Justice System

### What Is It?

The criminal justice system is the set of agencies and processes established by governments to control crime and impose penalties on those who violate laws. There is no single criminal justice system in the United States but rather many similar, individual systems. How the criminal justice system works in each area depends on the **jurisdiction** that is in charge: city, county, state, federal or tribal government or military installation. Different jurisdictions have different laws, agencies, and ways of managing criminal justice processes.<sup>1</sup>

The main systems are:

- **State:** State criminal justice systems handle crimes committed within their state boundaries.
- **Federal:** The federal criminal justice system handles crimes committed on federal property or in more than one state.

### System Components

Most criminal justice systems have five components—law enforcement, prosecution, defense attorneys, courts, and corrections, each playing a key role in the criminal justice process.

- **Law Enforcement:** Law enforcement officers take reports for crimes that happen in their areas. Officers investigate crimes and gather and protect evidence. Law enforcement officers may arrest offenders, give testimony during the court process, and conduct follow-up investigations if needed.
- **Prosecution:** Prosecutors are lawyers who represent the state or federal government (not the victim) throughout the court process—from the first appearance of the accused in court until the accused is acquitted or sentenced. Prosecutors review the evidence brought to them by law enforcement to decide whether to file charges or drop the case. Prosecutors present evidence in court, question witnesses, and decide (at any point after charges have been filed) whether to negotiate plea bargains with defendants. They have great discretion, or freedom, to make choices about how to prosecute the case. Victims may contact the prosecutor's office to find out which prosecutor is in charge of their case, to inform the prosecutor if the defense attorney has contacted the victim,<sup>2</sup> and to seek other information about the case.

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<sup>1</sup> Readers may find it helpful to consult their local victim assistance program, local prosecutor's office, state attorney general's office, local or state bar association, or local law library for information specific to their own area or jurisdictions.

<sup>2</sup> Defense attorneys sometimes contact victims about their case. Victims do not have to talk to defense attorneys or their investigators and are encouraged to contact the prosecutor if they have any concerns about such requests.

- **Defense attorneys:** Defense attorneys defend the accused against the government's case. They are either hired by the defendant or (for defendants who cannot afford an attorney) they are assigned by the court. While the prosecutor represents the state, the defense attorney represents the defendant.
- **Courts:** Courts are run by judges, whose role is to make sure the law is followed and oversee what happens in court. They decide whether to release offenders before the trial. Judges accept or reject plea agreements, oversee trials, and sentence convicted offenders.
- **Corrections:** Correction officers supervise convicted offenders when they are in jail, in prison, or in the community on probation or parole. In some communities, corrections officers prepare pre-sentencing reports with extensive background information about the offender to help judges decide sentences. The job of corrections officers is to make sure the facilities that hold offenders are secure and safe. They oversee the day-to-day custody of inmates. They also oversee the release processes for inmates and sometimes notify victims of changes in the offender's status.

## How the Criminal Justice Process Works

Below is a basic outline of the sequence of events in the criminal justice process, beginning when the crime is reported or observed. The process may vary according to the jurisdiction, the seriousness of the crime (felony or misdemeanor),<sup>3</sup> whether the accused is a juvenile or an adult, and other factors. Not every case will include all these steps, and not all cases directly follow this sequence. Many crimes are never prosecuted because they are not reported, because no suspects can be identified, or because the available evidence is not adequate for the prosecutor to build a case.

### Entry into the System

- **Report:** Law enforcement officers receive the crime report from victims, witnesses, or other parties (or witness the crime themselves and make a report).
- **Investigation:** Law enforcement investigates the crime. Officers try to identify a suspect and find enough evidence to arrest the suspect they think may be responsible.
- **Arrest or Citation:** If they find a suspect and enough evidence, officers may arrest the suspect or issue a citation for the suspect to appear in court at a specific time. This decision depends on the nature of the crime and other factors. If officers do not find a suspect and enough evidence, the case remains open.

### Prosecution and Pretrial

- **Charges:** The prosecutor considers the evidence assembled by the police and decides whether to file written charges (or a complaint) or release the accused without prosecution.
- **First Court Appearance:** If the prosecutor decides to file formal charges, the accused will appear in court to be informed of the charges and of his or her rights. The judge decides whether there is enough evidence to hold the accused or release him or her. If the defendant does not have an attorney, the court may appoint one or begin the process of assigning a public defender to represent the defendant.
- **Bail or Bond:** At the first court appearance (or at any other point in the process—depending on the jurisdiction) the judge may decide to hold the accused in jail or release him or her on **bail, bond**, or on his or her **“own**

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<sup>3</sup> Felonies are punishable by more than one year in prison; misdemeanors are punishable by up to one year in jail.

**recognizance (OR).**” (OR means the defendant promises to return to court for any required proceedings and the judge does not impose bail because the defendant appears not to be a flight risk). To be released on bail, defendants have to hand over cash or other valuables (such as property deeds) to the court as security to guarantee that the defendant will appear at the trial. Defendants may pay bail with cash or **bond** (an amount put up by a bail bondsman who collects a non-refundable fee from the defendant to pay the bail). The judge will also consider such factors as drug use, residence, employment, and family ties in deciding whether to hold or release the defendant.

- **Grand Jury or Preliminary Hearing:** In about one-half of the states, defendants have the right to have their cases heard by a grand jury, which means that a jury of citizens must hear the evidence presented by the prosecutor and decide whether there is enough evidence to indict the accused of the crime. If the grand jury decides there is enough evidence, the grand jury submits to the court an **indictment**, or written statement of the facts of the offense charged against the accused. In other cases, the accused may have to appear at a preliminary hearing in court, where the judge may hear evidence and the defendant is formally indicted or released.
- **Arraignment:** The defendant is brought before the judge to be informed of the charges and his or her rights. The defendant pleads guilty, not guilty, or no contest (accepts the penalty without admitting guilt). If the defendant pleads guilty or no contest, no trial is held, and offender is sentenced then or later. If the defendant pleads not guilty, a date is set for the trial. If a plea agreement is negotiated, no trial is held.

## Adjudication (Trial Process)

- **Plea Agreements:** The majority of cases are resolved by plea agreements rather than trials. A plea agreement means that the defendant has agreed to plead guilty to one or more of the charges in exchange for one of the following: dismissal of one or more charges, a lesser degree of the charged offense, a recommendation for a lenient sentence, not recommending the maximum sentence, or making no recommendation. The law does not require prosecutors to inform victims about plea agreements or seek their approval.
- **Trial:** Trials are held before a judge (bench trial) or judge and jury (jury trial), depending on the seriousness of the crime and other factors. The prosecutor and defense attorney present evidence and question witnesses. The judge or jury finds the defendant guilty or not guilty on the original charges or lesser charges. Defendants found not guilty are usually released. If the verdict is guilty, the judge will set a date for sentencing.

## Post-Trial

- **Sentencing:** Victims are allowed to prepare for the judge (and perhaps to read at the sentencing hearing) a victim impact statement that explains how the crime affected them. In deciding on a sentence, the judge has a range of choices, depending on the crime. These choices include restitution (paying the victim for costs related to the crime), fines (paid to the court), probation, jail or prison, or the death penalty. In some cases, the defendant appeals the case, seeking either a new trial or to overturn or change the sentence.
- **Probation or Parole:** A judge may suspend a jail or prison sentence and instead place the offender on probation, usually under supervision in the community. Offenders who have served part of their sentences in jail or prison may—under certain conditions—be released on parole, under the supervision of the corrections system or the court. Offenders who violate the conditions of their probation or parole can be sent to jail or prison.

## If You Are a Victim

The criminal justice system can be overwhelming, intimidating, and confusing for anyone who does not work within it every day. As a victim, you will need to know what to expect and have support throughout the process. You will also want to know your rights and the choices you may have to make.<sup>4</sup>

You may also need information and guidance to help you stay safe. For example, if you are harassed or stalked by the offender at any point in the criminal justice process, you should immediately report these violations to the police and inform the prosecutor. Also, while the offender is in jail or prison, the corrections staff is generally required to notify you if the offender is released or escapes or if a parole hearing is pending, if you request such notification. Also, most states have automated notification systems that allow registered victims (those who sign up) to check on the status of an offender at any time. Such systems will automatically notify you of an inmate's escape or release. (See [www.vinelink.com/vinelink/initMap.do](http://www.vinelink.com/vinelink/initMap.do) for more information about state notification systems.)

## Resources

The best way to learn all this information is to talk to a crime victim advocate in your area. Check your local services directory or contact the National Crime Victim Helpline (**1-800-FYI-CALL**). The Helpline's crime victim advocates can provide additional information about the criminal justice system, answer your questions, and refer you to services in your local area. The services are free and confidential.

### National Crime Victim Helpline

1-800-FYI-CALL (1-800-394-2255)

1-800-211-7996 TTY

8:30 a.m.– 8:30 p.m. ET weekdays

Or visit: **Help for Crime Victims:** [www.ncvc.org/victimassistance](http://www.ncvc.org/victimassistance)

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<sup>4</sup> See [www.victimlaw.info](http://www.victimlaw.info) for general information about victims' rights.

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