Understanding Criminal Justice

- What is crime?
  - A violation of the criminal laws of a jurisdiction.
  - No legally acceptable justification or excuse.

- What is justice?
  - A principle of fairness
  - The ideal of moral equality
How is justice applied?

• Social justice
  – An ideal that embraces all aspects of civilized life and is linked to fundamental notions of fairness and to cultural beliefs about right and wrong.

• Civil justice
  – Civil law and procedure dealing with private rights and remedies sought for harms done or caused.
• **Criminal justice**
  – Penal law and the law of criminal procedure dealing with the enforcement of criminal law.

• **Administration of justice**
  – The performance of activities such as:
    • Detection
    • Apprehension
    • Detention
    • Pretrial release
    • Prosecution
    • Adjudication
    • Corrections
    • Rehabilitation
The System

• The Criminal Justice System has three main components:
  – Police
  – Courts
  – Corrections

The United States Department of Justice

http://www.justice.gov/
The American System of Justice

• There are two distinct models of the criminal justice system:
  – Consensus
  – Conflict
The Consensus Model

- Assumes that the components of the system strive toward a common goal.
- The system and how it operates is anticipated to be *smooth* due to the anticipated cooperation between the various components.
The Conflict Model

• The actors within the system are viewed as self-serving.
  – This is not limited to individuals, but includes organizations/agencies.

• The system goals are seen as conflicting.
The Process

• Arrest
  – Probable cause
    • Plain view
      – Includes the five senses
    • Investigation
  – Warrant

• Booking/processing
  – The administrative process of recording information of the person arrested.
• Pretrial
  – First appearance – bail
  – Preliminary hearing
  – Grand Jury
  – Arraignment
• Trial
• Sentence
• Corrections
  – Probation & Parole
Due Process

• The U.S. Constitution requires that criminal case processing be conducted with fairness and equity.
• This requirement affords due process.
• Due process means procedural fairness.
• A violation of someone’s individual rights can be the basis for dismissal of the charges.
Due Process & the Constitution

• The Due Process clause is guaranteed by the Constitution:
  – Fifth Amendment – *Due Process Clause*
  – Sixth Amendment
  – Fourteenth Amendment – *Due Process Clause*
The Bill of Rights

- The first ten amendments to the U.S. Constitution.
- Table 1-1 lists individual rights guaranteed by the Bill of Rights.
- These rights are interpreted by the courts in assessing due process.
  - Interpretation is a judicial function