Defining justice

- Fairness
- Equality
- Impartiality
- Appropriate rewards or punishment
Origins of the Concept of Justice

- Originates with the Greek word *dike*
  - Associated with the concept of everything staying in its assigned place or natural role

- Aristotle distinguished distributive from rectificatory justice
  - *Rectificatory or commutative justice*
    - Concerned with unfair advantages or undeserved harm. This type of justice demands remedies or compensation
  - *Distributive justice concerns measurements used to allocate social resources. Proportionality and equality.*
Components of Justice

- **Distributive justice** is concerned with the allocation of goods and burdens to members of the society.
- **Corrective justice** concerns the determination and methods of punishment.
- **Commutative justice** is associated with the transactions and interchanges where one person feels unfairly treated.
Three continuing themes

• Fairness
  – Inextricably tied to equality and fairness

• Equality
  – A predisposition to demand equity or equal shares for all

• Impartiality
  – The core of our system of criminal justice
Distributive justice

- The concept of appropriate and just allocation of society’s goods and interests.
  - Goods we might possess
    - Economic
      - Income or property
    - Opportunities for development
      - Education or citizenship
    - Recognition
      - Honor or status
Distribution theories

• According to Lucas (1980) distribution may be based on:
  – Need
  – Merit
  – Performance
  – Ability
  – Rank
  – Station
  – Worth
  – Work
Categorizing theory

- Egalitarian – premise of equality for all
- Marxist – places need above desert
- Libertarian – promotes freedom from government interference
- Utilitarian – attempts to maximize benefits for individuals and society in a mixed emphasis of entitlement and need
Corrective Justice

- Concerned with dispensing punishment
- Two components that should be differentiated:
  - Substantive
  - Procedural
Substantive justice

• Involves the concept of just deserts
  – How to determine a fair punishment for a particular offense
  – *Just Punishment* is punishment set in relation to the degree of harm incurred
Retributive justice

• The concept is one of balance:
  – The punishment is proportional to the suffering
  – *Lex talionis*
    • “An eye for an eye.”
      – *Lex salica*
        ◆ Allows for compensation. The harm can be repaired by payment or atonement.
Procedural justice

• Is grounded in law
  – Law is considered to be objective
    • A system of rules
  – Justice on the other hand is considered subjective
    • The concept of fairness

• Due Process exemplifies procedural justice
  – Found in the Fifth and Fourteenth Amendments
Due Process

- **Sequence of events**
  - Notice of charges
  - Neutral hearing body
  - Right to cross-examination
  - Right to present evidence
  - Representation of counsel
  - Statement of findings
  - Appeal