The criminal justice system is a combination of laws regulating behavior and the institutions that enforce these laws. It incorporates police, courts, jails, prosecutors, and defense attorneys. These separate elements have existed for centuries, and each has its own history, but American criminal justice emerged as an interconnected system in the late 19th century.

In the United States, criminal justice was built around state, county, and municipal laws and enforcement mechanisms; for most of American history, it was an overwhelmingly local process. Each state has its own penal code, as do local governments. Courts have traditionally been the central instruments. In colonial America, most cases reached courts when accusers—plaintiffs—swore out complaints. Only in major cases such as murders would coroners assemble juries to formally accuse suspects. These arrangements existed because communities had no real policing mechanisms. Boston created the first police department in the United States in 1838, and few cities followed that example until the 1850s. Instead, in 19th-century Philadelphia, most cases were initiated by private prosecutions. Plaintiffs would swear a complaint before a magistrate and pay a constable to bring defendants to court. This democratic arrangement allowed everyone who could afford court fees to seek justice. Statesponsored prosecutions, however, gradually replaced private prosecutions later in the 19th century. Philadelphia established a police department in 1845 and, after much controversy, consolidated its neighborhoods under one centralized municipal government in 1854. Establishing fulltime city services brought larger caseloads into courts and demanded more administrative organization.

The various elements involved in criminal justice began to operate as an integrated system by the late 19th century. Police departments acted as investigators on behalf of municipal governments. District attorneys or public prosecutors—lawyers employed by local or state government to pursue cases—became common after 1870. Defense attorneys also became players in the system, although they appeared mainly on behalf of clients who could pay them; courts hired attorneys for the poor only if they faced serious charges, and public defenders were rare. Turnofthecentury courts in the locality that has been studied most closely—Alameda County, California—developed a pyramid structure. The courts at the base of the pyramid—variously called police courts, justice courts, or magistrate's courts—conducted initial hearings on felony charges and managed most misdemeanor cases entirely. A majority of offenses involved disorderly conduct, drunkenness, and vagrancy, and courts dispensed justice in these cases in a quick and rough fashion. Defendants might have a few minutes to explain themselves before judges issued verdicts and imposed sentences. Only at the second level of the pyramid, the superior courts that heard felonies, did prosecutors mount cases and did attorneys defend their clients. Cases at this level usually began with an information—a referral—from the lower courts. Superior courts featured juries as well as judges, but juries played only a limited role. Instead, pleabargaining arrangements—admissions of guilt in exchange for lesser sentences—became common among prosecutors, defense attorneys, and judges. Roughly one third of Alameda County cases between 1900 and 1910 ended in a guilty plea. Only a small portion of cases reached the top of the pyramid, appeals courts, which addressed challenges to previous decisions or cases dealing with
questions of law or procedure.

The criminal justice system accumulated new mechanisms at the turn of the century. Courts began to place some convicted offenders on probation, supervising them without jailing them. Courts also experimented with giving convicts indeterminate sentences—flexible terms of incarceration within a minimum and maximum range—and letting state parole boards decide the actual release date. And between 1899 and the early 1920s, almost every state established separate juvenile courts with mixed purposes of disciplining young offenders, protecting them from courts and jails, and providing treatment.

Older institutions also expanded in the early 20th century. Urban police departments grew to keep pace with the monumental population growth in industrial cities such as Detroit. Court systems became more organized as well. Chicago created the nation's first “municipal court” in 1906 to manage its legal system under a single chief justice who assigned cases to branch courts with clearly delineated jurisdictions and powers. And state prison systems added new facilities that allowed variations in functions and levels of security and came under the coordination of state-level departments of corrections.

In the 20th century, criminal justice became a national as well as local issue. This shift triggered two key changes in how justice operated. The first change was that the federal government went from playing a very small role to becoming a central figure. The Harrison Narcotics Act of 1914 made certain drugs illegal and gave enforcement responsibility to the federal government. The 18th Amendment, which prohibited the manufacture and sale of alcohol between 1920 and its 1933 repeal, and the 1932 Lindbergh Law, which made kidnapping a federal crime, after the killing of aviator Charles Lindbergh's infant son, placed more offenses under national jurisdiction. New antidrug measures, enacted in the late 1960s and expanded during the 1980s War on Drugs, further increased federal powers. National law enforcement agencies also proliferated. The Federal Bureau of Investigation, created in 1908, evolved into the nation's leading law enforcement agency by the early 1930s under the leadership of J. Edgar Hoover. The second key change was that federal courts took a greater interest in local criminal justice, and their decisions generated more uniform procedures and attention to defendants' rights. This transition began with cases involving civil rights in the 1930s South; the U.S. Supreme Court found that defendants facing the death penalty were entitled to attorneys and that African Americans could not be barred from juries. In the 1960s, the Supreme Court carried out a judicial revolution in which it applied federal standards of due process to state and local courts. In a series of decisions, the Supreme Court clarified requirements that state and local law enforcement agencies had to uphold in issues such as defendants' rights, police rules for searches and seizures, prison conditions, and the death penalty.

The expansion and standardization of criminal justice in the 20th century has done little, however, to quell concerns that the system is ineffective. A series of “crime surveys” executed in the 1920s by municipal, state, and federal governments all worried that too many criminals escaped justice. Academic criminology expressed similar concerns in the 1970s when studies of criminal justice outcomes suggested that, in the phrase of the day, “nothing works.” Even the massive expansion of the United States prison population at the end of the century—the number of Americans incarcerated in prisons and jails increased from fewer than 500,000 in 1980 to just over 2.1 million in 2003—had only a loose correlation with decreases in crime rates.

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See also
Crime and Criminals

Further Readings and References


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