

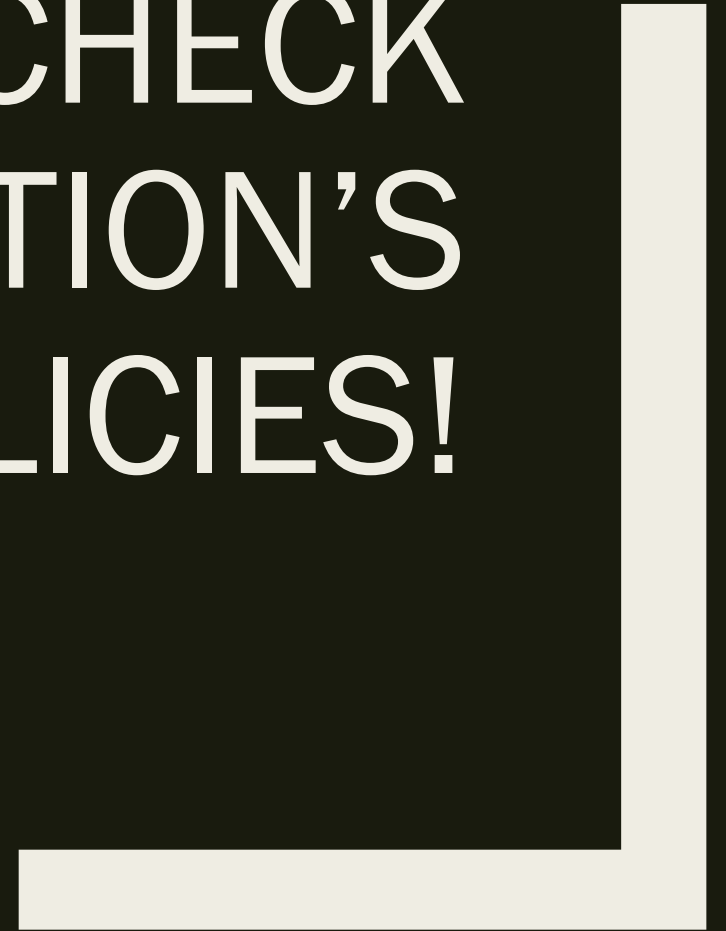
BOOK JUSTICE

Cops, courts, or corrections. Sooner or later, most of our guys are going to come in contact with the criminal justice system. We'll do a crash course on the U.S. criminal justice system with special emphasis on subjects authors often get wrong--or need to take special care with. We'll leave with a better idea of how to get our guys into and out of trouble, and we're bound to find a few juicy plot bunnies along the way.





REMEMBER TO CHECK  
YOUR JURISDICTION'S  
RULES AND POLICIES!



# Jurisdiction/Fragmentation

- City
- County
- State
- Federal
- International

# Jurisdiction/Fragmentation

- 18,000 law enforcement agencies
- 51 court systems
- 1800 state and federal prisons
- 3200 local jails

# Components of the CJ System

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Codes



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Cops

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Courts

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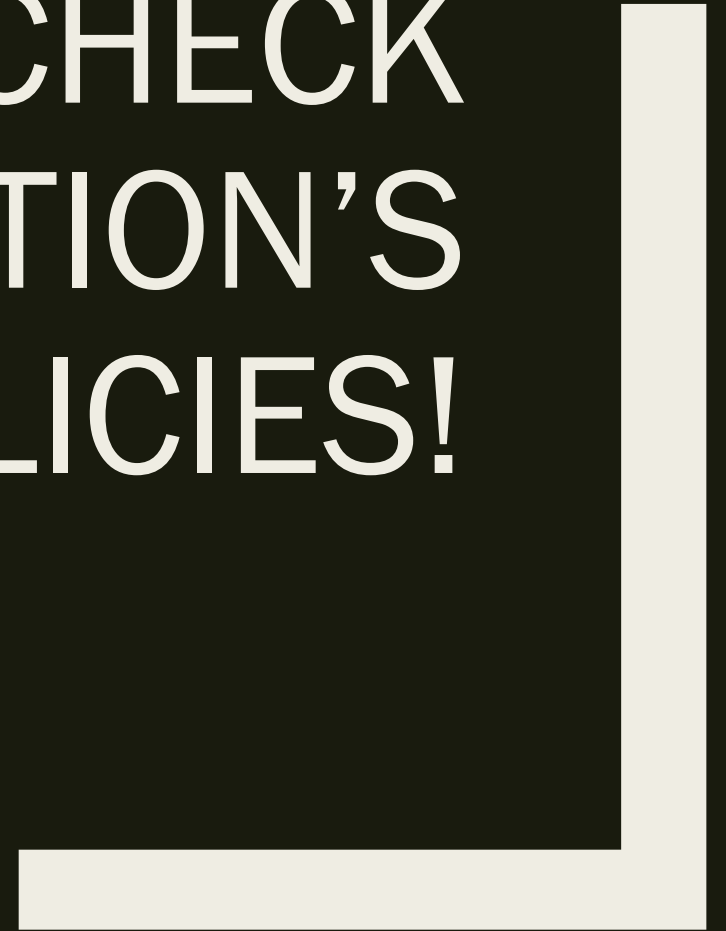
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CODES



# Homicide

- Taking the life of a human being
- Divided into murder and manslaughter, and each of those is subdivided. What differentiates them is the offender's intent—with premeditation, willfully, recklessly, etc.
- Sentences may range from short term in prison to death

# Homicide

## Felony murder:

When someone dies in the course of a felony, and when the death is foreseeable, the person committing the felony is liable for 1<sup>st</sup> degree murder, regardless of whether he intended to kill anyone. Even regardless of whether he committed the fatal act.



# Burglary v. Robbery v. Larceny

- **Robbery** is taking property through force or threats of force
- **Burglary** is entering a structure or vehicle with intent to commit a felony
- **Larceny** is taking property without force or threats
- Robbery is a more serious offense—it's classified as a violent crime
- A person can be convicted of both burglary and larceny for the same event



# Juvie

- Jurisdictions vary hugely as to criminal liability for juveniles
- Juveniles can be tried as adults; the mechanisms vary
- In some states, juvenile offenses may count towards 3 Strikes

# Juvie

- In some states, juvenile records are rarely sealed



# Hate crime

- In about half the states with hate crime laws, the laws do not include crimes based on sexual orientation
- Even fewer states protect gender or gender identity
- Hate crimes are severely underreported
- Hate crime prosecutions and convictions are extremely rare

# Hate crime



- Only ~5% of hate crime offenders belong to organized extremist groups



COPS



# Science

- Most crimes have little or no evidence that can be scientifically examined
- It can take a long time to get results. Some labs are backed up for longer than a year.
- Science is not infallible.

# Lying

- Cops can lie about lots and lots of things
- Even if asked directly whether they are cops, they can lie about that too
- When there are multiple suspects, they can (and do) lie, telling one of them that the other has ratted him out



# Missing Persons

- Grammar and punctuation be damned—they're called Missing Persons Reports
- People do not have to wait 24 hours to file a report, especially if the missing person is at risk



# Miranda

- Suspects need to be Mirandized only before they are subjected to **custodial interrogation**
- The wording doesn't have to be exact
- Suspects can waive their rights—and most do
- Even juveniles can waive their Miranda rights and can be interrogated without a parent or lawyer present

# Warrants

- There are arrest warrants and search warrants
- Warrants are almost never needed for arrests
- The courts have carved out a number of exceptions to the warrant requirement

# Warrants



- Police virtually never need a warrant to search a vehicle or anything in that vehicle (but do need probable cause)

# Warrants



- If police have an arrest warrant or are in hot pursuit of a fleeing felon, they can enter any structure if they have probable cause to believe the subject is there. And if the police happen to accidentally catch someone else up to no good while they're there? Jackpot!

# Warrants



- If police do not have authority to search, they can always ask the subject for a **consent search**. They do not need to inform the subject that he has the right to refuse.

# Deadly force

- Police may use deadly force on a suspect if they **reasonably** think it's necessary to protect themselves or others from serious harm.
- Even “non-lethal” force (pepper spray, chokeholds, Tasers) may occasionally kill

# Constitutional rights

- The rights contained within the Constitution protect people only from actions committed by **government agents**. The Constitution doesn't restrict the actions of anyone else—eg, private detectives and private companies

# Death investigations

- Policies, titles, and administrative structure vary widely
- Often, the **coroner** is a law enforcement agent (such as a sheriff). Her job is to investigate suspicious or unaccompanied deaths
- The **medical examiner** is a doctor who conducts the autopsies. That person usually specializes in **forensic pathology**. His job is to determine **cause of death**
- The medical examiner does not determine **manner of death** (suicide, accident, natural causes, homicide, etc)
- Other forensic specialists may also be consulted (anthropology, entomology, odontology etc.)
- The responsible police agency—not the coroner—usually collects other evidence from the scene
- They don't use Vick's (at least not where I live)



# Pressing charges

- The decision about whether to press charges almost never is up to the victim—it's up to the prosecutor
- The victim can decide whether to report and how cooperative to be with the investigation
- Prosecutors can file charges even if the victim doesn't want them to



# Fragmentation

- Compared to local policing, federal law enforcement involvement in crimes is rare.
- Multiple agencies may have jurisdiction over a particular offense. They usually cooperate, especially if they're local.

# Fragmentation

- Small towns may contract with larger agencies for things like homicide investigations.





COURTS



# Pleas

There are only three possible pleas:

- Guilty
- Not guilty (not “innocent”)
- No contest

# Plea bargaining



- Only about 5% of arrests result in a trial
- Most cases are plea bargained
- Despite this, court backlogs can be very long
- The decision whether to accept a plea deal may be difficult

# Accomplice liability

- Those who assist before or during the commission of a crime are called **accomplices** and may be subject to the same sanctions as the primary offender
- Those who assist afterward—eg, in hiding the suspect or destroying evidence—are usually charged as **accessories after the fact**. They generally face lesser charges such as obstructing justice.

# Insanity defense

- Is very rarely used
- Is successful only about 25% of the time
- Standards for insanity vary but all are very different from psychological or psychiatric definitions of mental illness
- Some states have no insanity defense
- Defendants who are successful with the defense will generally be detained in a mental institution until they are deemed to no longer be a danger to themselves or others

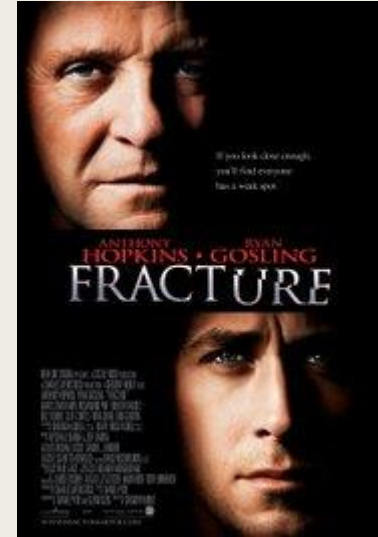


# Double jeopardy

- Prohibits trying or punishing someone more than once for the same offense

# Double jeopardy

- Sometimes it's fuzzy whether a second offense can be charged
- Double jeopardy doesn't stop different states (or the feds) from prosecuting someone who's already been tried for an offense (**dual sovereignty**)
- The right to double jeopardy **attaches** as soon as the jury is sworn in at trial, but a defendant can usually be retried if a mistrial occurs
- The right means that once a defendant is **acquitted**, he can't be tried again for that same offense, even if wonderful new evidence materializes



# Verdict

Only two verdicts are possible:

**Guilty** – The jury finds that the prosecutor has proven every element of the crime beyond a reasonable doubt

**Not Guilty** – The jury finds that the prosecutor has failed to prove at least one element beyond a reasonable doubt

Note: Defendants are not found “innocent”



CORRECTIONS

# Jails v. Prisons

## Jails

- are usually run by city or county law enforcement agencies
- house pretrial detainees who couldn't bail out
- house people who have been convicted of misdemeanors and are serving less than a year



# Jails v. Prisons



# Jails v. Prisons

## Prisons

- are usually run by state or federal agencies (or private corporations)
- house people convicted of felonies who are serving more than a year
- range from minimal security to Supermax



# Jails v. Prisons





# Probation v. Parole

- **Probation** is when a person is given supervised release instead of incarceration. It's one of the most common sanctions. Length of probation, degree of supervision, and conditions of probation vary. If the probationer violates the conditions, he'll end up incarcerated.
- **Parole** is when a felon is released early from prison. Parolees are generally supervised closely. If they violate their parole conditions, they go back to prison.

# Conjugal visits

- Only four states (California, Connecticut, New York and Washington) allow conjugal visits
- Even there, few inmates are eligible
- California and New York explicitly allow conjugal visits from same-sex partners.
- The couple must have been married or in a domestic partnership prior to incarceration.

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