

## I. THE BIG PICTURE

I	What does the “justice system” do?	Who does it?	What’s your role? You’re a voter and ...
II	Enact criminal laws	Legislators	
III	Investigate crimes; apprehend suspects	Police; Local Government	
IV	Prosecute, defend, and decide criminal cases	District Attorney’s Office; Public Defender’s Office; Judges; Jurors	Crime victim? Defendant or family? Juror?
V	Sentence those convicted	Judges	
VI	Punishment; rehabilitate, restitution, retribution, deterrence, and incapacitation.	Correctional Staff; Probation Officers; Re-Entry Centers; Non-Profits	Volunteer?

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**Overview:** Here’s a fun flow chart showing paths through the criminal justice systems:

<https://www.bjs.gov/content/largechart.cfm>

**Statistics:** The Bureau of Justice Statistics within the U.S. Department of Justice keeps statics on many aspects of the criminal justice system.

- Website homepage: <https://www.bjs.gov/>
- Stats for state and federal prisons in 2018:  
<https://www.bjs.gov/content/pub/pdf/p18.pdf>
- Stats for federal prisons 2015-16:  
[https://www.bjs.gov/content/pub/pdf/fjs1516\\_sum.pdf](https://www.bjs.gov/content/pub/pdf/fjs1516_sum.pdf)
- 2018 UCI study of California crime rates:  
[https://ilssc.soceco.uci.edu/files/2018/02/ILSSC\\_SoCal\\_Crime\\_Report\\_2018.pdf](https://ilssc.soceco.uci.edu/files/2018/02/ILSSC_SoCal_Crime_Report_2018.pdf)

**Big Picture Questions:** What are the pros/cons of giving more or less discretion to the decision-makers? How does your view of your likely role in the system affect your opinions about discretion?

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## II. ENACTING LAWS

### What behavior should we criminalize?

Possessing, using, or selling drugs? Sleeping in public?

- Retired Orange County Superior Court Judge James P. Gray wrote a book criticizing the “war on drugs.” [https://www.amazon.com/Drug-Laws-Have-Failed-About-dp-1439907994/dp/1439907994/ref=dp\\_ob\\_title\\_bk](https://www.amazon.com/Drug-Laws-Have-Failed-About-dp-1439907994/dp/1439907994/ref=dp_ob_title_bk)

The debate over “criminalizing” homelessness:

- *National Picture*: [https://nlchp.org/wp-content/uploads/2019/02/No\\_Safe\\_Place.pdf](https://nlchp.org/wp-content/uploads/2019/02/No_Safe_Place.pdf)
- *Orange County*: <https://www.courthousenews.com/federal-judge-approves-orange-county-settlement-on-homelessness/>
- *Los Angeles*: <https://www.citywatchla.com/index.php/cw/los-angeles/19821-a-federal-judge-is-acting-like-our-homeless-czar>
- *Current case involving Irvine*: View federal court records for free on PACER website at <https://pacer.uscourts.gov> Case no 8:18-cv-00155-DOC-JDE

### How should we punish crime?

It has been politically popular to be “tough on crime,” prompting legislatures to enact mandatory minimum sentences and reduce judges’ sentencing discretion.

- Timeline: <https://www.theatlantic.com/politics/archive/2014/04/a-timeline-of-the-rise-and-fall-of-tough-on-crime-drug-sentencing/360983/>
- Pros and cons: <https://vittana.org/11-mandatory-minimum-sentences-pros-and-cons>
- 2009 book about being “smart on crime” rather than “tough”:  
[https://www.amazon.com/Smart-Crime-Kamala-Harris-ebook/dp/B002X6DXEO/ref=sr\\_1\\_2?dchild=1&keywords=smart+on+crime&qid=1597707380&sr=8-2#customerReviews](https://www.amazon.com/Smart-Crime-Kamala-Harris-ebook/dp/B002X6DXEO/ref=sr_1_2?dchild=1&keywords=smart+on+crime&qid=1597707380&sr=8-2#customerReviews)
- PBS news blurb on the First Step Act from December 2018, a recent federal law that shortened sentences for crack cocaine offenses and made other reforms:  
<https://www.youtube.com/watch?v=JwoYFq3hCrE>
- More ideas for sentencing reforms:  
<https://www.washingtonpost.com/opinions/2019/06/30/theres-another-tough-on-crime-law-democrats-should-focus-their-criticism/>

### III. POLICING

Here's a quick list of some pros/cons of giving police officers more discretion:

<https://greengarageblog.org/16-advantages-and-disadvantages-of-police-discretion>

**Use of Force:** How much force can officers lawfully use under the U.S. Constitution? These links explain the seminal U.S. Supreme Court case, Graham v. Conner. The second is a video from the Federal Law Enforcement Training Center from a law enforcement perspective:

- Graham v. Conner overview: [https://en.wikipedia.org/wiki/Graham\\_v.\\_Connor](https://en.wikipedia.org/wiki/Graham_v._Connor)
- *Law Enforcement Perspective from the Federal Law Enforcement Training Center:* <https://www.youtube.com/watch?v=zhtQovjR2C0>

In August 2019, California enacted a new law, effective January 2020, with a more restrictive standard than Graham.

- Description of the new law: <https://www.latimes.com/politics/la-pol-ca-california-police-use-of-force-law-signed-20190711-story.html>
- April 2019 criticizing the original version of the bill: <https://www.police1.com/use-of-force/articles/opinion-overhauling-police-use-of-force-in-california-fusupMa5QxDgfdKm/>

#### **Systematic Racism in Policing**

*Further resources regarding racially biased policing:*

- <https://www.washingtonpost.com/graphics/2020/opinions/systemic-racism-police-evidence-criminal-justice-system/#Policing>
- <https://www.washingtonpost.com/graphics/investigations/police-shootings-database/>
- <https://reason.com/2020/06/17/is-racially-biased-policing-a-statistical-mirage/>

#### **Proposed Solutions and Perceived Obstacles**

- <https://www.theatlantic.com/ideas/archive/2020/06/how-actually-fix-americas-police/612520/>
  - <https://www.vox.com/2020/6/16/21291595/new-york-section-50-a-police-misconduct>
  - <https://www.motherjones.com/crime-justice/2020/08/police-unions-minneapolis/>
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## **SERVING ON JURIES**

*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ....*

### **U.S. Const. amend. VI.**

- Information about jury service: <https://www.uscourts.gov/services-forms/jury-service>

**Implicit Bias:** How well do you think jurors decide verdicts based on the evidence?

- [Implicit Association Test](#) (IAT): You can take an IAT online (about 10 min.)
- A professor discussing the IAT: <https://www.youtube.com/watch?v=ABSeKU2qJol> (13 min.)

### **Peremptory Challenges to Prospective Jurors:**

- In June 2019, the U.S. Supreme Court ruled that a Mississippi prosecutor used peremptory challenges unconstitutionally to excluded black jurors from the murder trial of Curtis Flowers.

*Case summary:* <https://www.jurist.org/news/2019/06/us-supreme-court-holds-racial-bias-in-jury-selection-unconstitutional/>

*Link to audio recording of oral argument:* <https://www.oyez.org/cases/2018/17-9572>

- California Assembly Bill 3070 (last amended in Aug. 2020) would decrease the number of peremptory challenges and expand the number of unlawful reasons for exercising them. Is limiting peremptory challenges likely to result in more or less biased juries?

- <https://law.irank.org/pages/7925/Jury-SHOULD-PEREMPTORY-CHALLENGE-BE-ABOLISHED.html>
- <https://abovethelaw.com/2015/11/criminally-yours-dont-eliminate-peremptory-challenges/>

## **IV. Prosecutorial Discretion**

*Racial Bias in Plea Bargaining:*

- <https://www.themarshallproject.org/2017/10/23/when-race-tips-the-scales-in-plea-bargaining>

*Forced Neutrality in Criminal Justice:*

- <https://www.nj.com/opinion/2019/10/find-that-place-of-forced-neutrality-in-criminal-justice-opinion.html>

## **V. JUDGING**

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: “I, \_\_\_ \_\_\_, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as \_\_\_ under the Constitution and laws of the United States. So help me God.”

28 U.S.C. § 453.

Colorado Magistrate Judge S. Kato Crews penned a very thoughtful op ed for Law Week Colorado on the meaning of our judicial oath and how it relates to racial justice in the courts and society: <https://lawweekcolorado.com/2020/07/without-respect-to-persons/>

## **VI. REHABILITATING OFFENDERS**

Orange County federal and state courts participate in numerous programs to divert offenders from the justice systems, address substance abuse, and assist those recently released from custody.

### **Programs Offered:**

The CASA program <https://www.fpdcdca.org/resources/casa-star/casa-program/>

The STAR program <https://www.fpdcdca.org/resources/casa-star/star-program/>

The Collaborative Courts <https://www.occourts.org/directory/collaborative-courts/>

Peer Court <https://www.crfoc.org/programs/peer-court/>

## **Non-profit groups also offer ways to help locally:**

- The August 2020 issue of the Orange County Bar Association's magazine profiles justice-related charities supported by the local bar: <http://www.ocbar.org/All-News/News-View/ArticleId/3887/August-2020-Cover-Story-Raise-Your-Glass-at-Home-Celebrating-Local-Law-Related-Charities>
- Mentoring kids of inmates through America On Track, Santa Ana, CA  
<http://www.americaontrack.org/>
- Mentoring adults on probation  
<https://www.ocgov.com/gov/probation/employment/volunteer>
- Writing letters to prisoners through Write a Prisoner – Prison Pen-Pals  
<https://writeaprisoner.com/>