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• An Assistant Michigan Attorney General handling both criminal, civil and appellate work.
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Shel is married to Cyndi. He has four grown daughters and seven grandchildren. Shel and Cyndi live in Denver with their two dogs, Punam and Schmutz.

This book is dedicated to my wife Cyndi, my inspiration and the love of my life. This would not have happened without you, my love.
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-Shel Silver
 MODULE 1
The Criminal Justice System

Key Module Concepts:

• Identify many of the varied professions and skill sets at work within the criminal justice system

• The roles, duties, and responsibilities played by citizens, first responders, technical experts, and legal professionals in the investigation and disposition of criminal matters

• Unreasonable search and seizure rights and law

• Criminal trial process and procedure

• Highlight some of the responsibilities and contributions of social service networks in the justice system
Introduction

Few professions provide the excitement, challenge, drama, scientific intrigue, use of cutting edge technology, and benefit to society than those that are a part of the criminal justice industry.

What is the criminal justice industry? Is it the police department? Private investigators? Crime scene or crime lab technicians? Prosecutors, defense counsel, judge and jury? Lawyers? Prison guards and prison administrators? Parole officers? The short answer is that it’s all these people, professions, and organizations, and many more not listed here. These professionals and their effective functioning make it possible for us to live in a safe and lawful society. They are the people and the institutions that comprise our criminal justice system -- a system that underscores our nation’s commitment to the rule of law.

We will share this exciting field with you by introducing you to real-life people, scenarios, and cases. We’ll help you begin to understand the amazing and sometimes complex inter-connectivity and mutual dependencies of the various elements within the criminal justice system that enable it to function on a day to day basis.

In this module, you’ll explore a fictional crime story and follow alongside criminal justice professionals as they seek to find out the “who, what, where, when, and how” of this crime. You’ll learn the right way to conduct an investigation so that accurate and lawfully obtained evidence is collected. You’ll also learn about the serious consequences for society when even one element in the overall criminal justice system misfires or doesn’t do its job.
The Crime Story

In the crime story that follows, you’ll be introduced to the roles and responsibilities of the various agents within the criminal justice system. You’ll also see that these elements are interrelated, all working within a dynamic system that’s more than just the sum of its parts.

As you read the story, pay particular attention to the various job roles. Ask yourself whether or not the district attorney, the judge, the defense attorney, the jurors, the probation officers, the prison personnel, and finally, the social service professionals and counselors acted professionally and lawfully. Did they do their jobs properly so that the best interests of justice, society, the accused man Henry Schneider, and the victim and her family were served?

Cast of Characters for the Crime Story

Nell Deane ................................................. a private citizen
Andy Jones ................................................. emergency call center dispatcher
Pete Birkley .............................................. police officer
Janet Lopez .............................................. police officer
Anne Schneider ........................................ Elm St. homeowner and resident
Mary Whitman ......................................... victim
Jim Row .................................................. police supervisor
Hannah Smith ........................................... dog-walking neighbor
Henry Schneider ...................................... ex-husband of Anne
Devon Jefferson ........................................ crime scene technician
Marion Gold ............................................. crime scene technician
Adam Connahan ...................................... detective
Sam Snellen ............................................. neighbor of Henry Schneider
Hamilton Marshfield ............................... district attorney
Vincent Alonzo ......................................... defense attorney
Judge Caitlin Morris .................................. criminal court judge
Gunther Johnson ...................................... probation officer
Amy Baker ............................................. Department of Corrections counselor
Jake Carter ............................................. parole officer
Matt Gruden ............................................ prison warden
Jorge Bettencourt .................................... social worker
Nell Deane lives at 123 Elm Street in Capital City. On Friday, August 15, at 4 p.m., she heard loud voices and screaming coming from the house next door. Deane was alarmed and feared some sort of emergency, such as a break-in or domestic dispute, was occurring. She called 911 to report the incident.

**COMMENTARY:** To maintain public safety, it’s important that citizens take the initiative and report unusual activity. In this situation, law enforcement could not have known anything was wrong at 125 Elm Street without Deane’s help.

Deane’s 911 call was processed by Andy Jones, a member of the emergency dispatch center team. Jones sent an *in-progress call for service* to a nearby patrol unit and dispatched it to 125 Elm Street to investigate a possible domestic disturbance. The patrol unit, staffed by Officers Pete Birkley and Janet Lopez, was on its way.

**COMMENTARY:** The information conveyed to the patrol unit indicates that the incident, whatever it is, might still be in progress. Further, there is no information about the person or person(s) involved or the specific nature of the emergency, if indeed one exists. A crime may — or may not — be in progress. What is known is that officers need to respond via the fastest, most direct route to the scene of the reported incident. The officers must also decide whether or not using the patrol car’s lights and siren would expedite their arrival at the scene.

**Resource** - Emergency dispatchers, also known as in-progress call-for-service takers, provide information obtained from the call takers to officers in the field. These dispatchers may be civilian employees or police officers.

They coordinate patrol officers’ activities and provide communications services vital to the resolution of reported incidents. The dispatcher’s role is to carefully listen, ask focused questions, collect as much caller information as possible, and broadcast a clear, accurate incident account to the officers in the field.

Smaller agencies often combine the services of call-takers and dispatchers into one job position. Their task is to obtain as much relevant information as possible from callers, and relay that information to dispatchers for appropriate action and follow-up in the field.
Arrival at the Residence

Officers Birkley and Lopez arrived at the silent Elm Street residence to find the front door wide open and what appeared to be a large blood smear on the inside doorframe (Figure 1.1). Birkley called for backup and emergency medical services; both officers drew their weapons and entered the home. This was no routine call.

COMMENTARY: Based on the information received from the dispatcher, the officers’ observation of possible blood on the door frame, and the wide open front door, responding officers have the legal right and moral obligation to enter the house quickly to determine what has taken place. They must also check on the safety and welfare of people inside the house. Situations such as this, which require immediate action, are called exigent circumstances. In a legal sense, this means that there is reasonable belief on the responding officers’ part that injury or death to persons may occur if responsible action isn’t taken right away.

From the foyer, the officers saw the body of a woman. Blood was on the floor, and her head lay in a pool of blood. Near her right hand the officers spotted a bloody letter opener. The victim appeared to have suffered a massive head wound. Officers Birkley and Lopez were certain, based on their experience, observed blood loss, and the obvious head injury, that they were looking at a corpse and not a person with treatable wounds. A quick check of the victim’s pulse confirmed this.

COMMENTARY: Police officers have a professional and legal duty to render aid to an injured person. This duty includes administering first aid as well as requesting the assistance of emergency medical personnel. Even if the person is obviously deceased, most police agencies require that emergency medical personnel be called in. Each agency has a different procedure for collaborating with EMT staff and providing on-scene aid.
Lopez and Birkley conducted an emergency sweep of the premises to see if there were other victims. They proceeded with great caution, guns drawn, in case other suspects or perpetrators were still on the scene. Once backup officers arrived, the crime scene was secured to prevent the contamination or destruction of evidence.

Within minutes of the officers’ arrival, Anne Schneider, the owner and sole resident of the Elm Street home, returned from a shopping trip. She was shocked and nearly speechless to come upon police officers, a bloody foyer, evidence technicians, and a woman’s body. The victim turned out to be her 36-year-old sister, Mary Whitman, who was visiting from out-of-town. With difficulty, she composed herself and conducted a walk-through of the house with the officers.

In her bedroom, she found the contents of her jewelry box emptied on the bed. It appeared that only an antique ring was missing. Also, a heavy brass candlestick was not in its usual spot on the mantelpiece, and couldn’t be found anywhere else in the house. Meanwhile, Patrol Supervisor Sergeant Jim Row arrived on the scene and was updated by Lopez and Birkley. Row called for more senior police detectives to continue the investigation.
Interviewing and Canvassing the Neighborhood

Lopez and Birkley interviewed Deane, the neighbor who initiated the 911 call. Other than loud voices and possible screaming, Deane noticed nothing unusual. Another neighbor, Hannah Smith, who resides around the corner at 127 Elm Street, saw all the police cars parked in front of the Elm St. residence and walked over to find out what was going on and then offered the officers a new piece of information. The officers realized Smith had seen something of significance, and called in the detectives to interview this witness in greater depth.

Smith reported that during her daily 4 p.m. dog walk, she observed Henry Schneider, ex-husband of Anne Schneider, enter his former residence. Smith speculated that Schneider appeared to be using a key, since she saw him open and enter through the front door.

A neighborhood canvass turned up no other witnesses or information.

What’s that term?

A neighborhood canvas takes place when investigating officers visit surrounding homes, and should be conducted early on to identify potential witnesses.

COMMENTARY: It’s important to interview and acknowledge the “heads up” awareness of persons making a 911 call. This encourages “neighbors looking out for neighbors,” and reinforces the importance of community cooperation with law enforcement officers.

In addition to their patrol-and-deter responsibilities, uniformed patrol personnel assist in criminal investigations. Although these officers’ primary duties entail preventing criminal activity, including apprehending and detaining suspects, they also play an important role in the investigative process.
Here’s an important point: if patrol officers do not conduct an effective initial investigation, and fail to properly secure the crime scene, this can have a very damaging effect and put at risk the success of all other elements of the investigation, apprehension, and prosecution of the offender(s).

In most law enforcement agencies, an entry-level officer needs to demonstrate competency in patrol work before being promoted to higher-ranking, plain-clothes detective or investigator.

A final member of the investigative team is the crime scene technician (CST), who may be either a civilian or a police officer. CST professionals provide high-level evidence collection, scientific, and technical skills.

What the Crime Scene Technicians Found

With the Elm Street crime scene preserved by uniformed officers, CSTs Devon Jefferson and Marion Gold scoured the house for physical evidence and found:

- Blood on the doorframe
- Blood on the letter opener near the victim’s hand
- Bloody shoe prints leading away from the body
- Hair and skin particles under the victim’s fingernails
- Various sets of fingerprints

COMMENTARY: Although the tasks and responsibilities of crime scene technicians require specialized training as well as the use of advanced evidence collection tools and techniques, important evidence is often found by sharp-eyed patrol officers and detectives who are first “on-the-scene” and who make savvy on the scene assessments.

Scientific collection of physical evidence is a demanding and exhaustive process; complete laboratory analysis of evidence often takes many days, depending on the size and sophistication of lab facilities, work backlog, and available technicians. It should also be noted that recent advances in DNA analysis have revolutionized the field of forensic science.
Evidence location, collection, and analysis specialties have expanded well beyond classification of fingerprints and typing of blood, with expert forensic analysis required in the fields such as computer forensics, analysis or enhancement of digital surveillance photographs, and many other specialized fields.

Coroners and medical examiners are doctors who investigate death cases. They provide advanced scientific analysis through the techniques of forensic pathology and are supplemented by experts such as forensic paleontologists, entomologists, and pharmacologists. Coroners and medical examiners perform autopsies in cases of suspicious or accidental death.

Detective Adam Connahan then conducted another round of witness interviews and received a case update from Birkley and Lopez. Schneider’s current address was found. When the detective and his partner arrived to interview him, Schneider’s apartment door was closed. Although the detectives heard movement inside, Schneider didn’t answer the door. Connahan noticed several bloody footprints in the hall.

Schneider was a viable suspect, and the detectives had probable cause to search the premises and interview him. Officers set up surveillance on Schneider’s residence, and moved quickly to obtain a proper search warrant.

The officers interviewed several of Schneider’s neighbors, but only one had relevant information. Sam Snellen, who lived across the hall, recounted that he observed Schneider return home about 4:30 that afternoon, quite disheveled, bleeding from a wound on his arm, and carrying some sort of metal object.

Resource - The United States Constitution guarantees that citizens can be safe in their homes from unreasonable search and seizure. Henry Schneider was not legally bound to talk to police, and the police had no legal right to force their way into his home without an arrest and/or search warrant.

The full text of the U.S. Constitution can be found at: www.house.gov/house/Educate.shtml
The Search Warrant

The officers were authorized to make a probable cause arrest of Schneider if he attempted to leave the apartment. Meanwhile, detectives obtained warrants from the district attorney’s division: an arrest warrant for Schneider, and a search warrant for his apartment, person and automobile. Other specifics detailed in the search warrant were a sample of Schneider’s DNA, a complete body search by medical personnel, his clothing and shoes, and the missing candlestick and ring.

**COMMENTARY:** If a police officer observes a person in the process of committing a crime or running away from a crime scene, the officer can make an arrest without obtaining a warrant. Without this first-hand observation, the officer must get a third party from the judicial branch to review the circumstances of the case and determine whether or not there is probable cause to make an arrest or conduct a search.

**What’s that term?**

**Probable cause** is less than absolute certainty but more than mere suspicion. In simple terms, probable cause means a reasonable person would agree with the officers’ conclusions to interrogate or detain a potential suspect.

Warrants in hand, the officers entered Schneider’s apartment, arrested him in the spot, found the missing candlestick and ring, and located bloodstained shoes (Figure 1.2) and other discarded clothing in the bedroom. CSTs searched for additional physical evidence, starting with the bloody footprints in the hallway. Jefferson and Gold also searched Schneider’s car, which they found parked at the curb.

**FIGURE 1.2: Bloody shoe print.**
Laboratory Results

Within 72 hours, preliminary lab results came back. Results included: the victim’s blood was on the candlestick, Schneider’s shoes and clothing, and in the apartment hallway. Trace elements of blood from both Schneider and the victim were found in his car. The victim’s blood was on the doorframe of the Elm Street residence. Multiple sets of fingerprints were found at the murder scene, including both Schneider’s and Whitman’s. Skin scrapings from under the victim’s fingernails were from Schneider. Both Schneider’s fingerprints, as well as Whitman’s, were found on the candlestick. The letter opener had a full set of the victim’s fingerprints, plus blood from both the victim and suspect. The ring had traces of Whitman’s blood and a partial print of Schneider’s. A body search of Schneider revealed long scratches on his face and a puncture wound on his lower right arm.

Presenting the Case — The Judicial System

The police presented the criminal case against Henry Schneider to District Attorney Hamilton Marshfield, who conferred with his prosecuting attorneys to review the evidence and decide on appropriate charges. After consultation, Schneider was charged with second-degree murder and felony breaking and entering.

COMMENTARY: The prosecutor is not bound to proceed with criminal charges against a suspect merely because he or she has been arrested. Prosecutors must review the facts of the case to determine if the arrest was lawful and proper, and decide what crime the suspect should be charged with. Often there are several possible charges and the prosecutor must make a decision about which charges, are best supported by the evidence, have the strongest chance of conviction, and serve the interests of justice.
The charges filed in criminal cases are based on what are called “elements of crimes.” Elements are individual conditions and actions that constitute a criminal offense. Each state statute has certain elements that must be met in order for charges to be filed.

For example, a burglary requires that a person unlawfully enters or remains in a structure in order to commit a theft offense or felony. A robbery requires that something be taken by force or threat of force. In some states a first-degree murder may require that there is premeditation and intent to murder without provocation. Each condition or action is specifically spelled out in the state statute.

After his arrest, Schneider was read his Miranda Rights and declined to speak with detectives. He contacted a defense attorney, Vincent Alonzo, who appeared with him at his arraignment. In a firm voice, Schneider pleaded “not guilty.” The prosecutor recommended that Schneider not be released on bail since this was an especially brutal crime and Schneider, currently unemployed, had few ties to the community. He was, in the prosecutor’s opinion, a possible flight risk. Bail was denied and Schneider was remanded to custody.

An arraignment is an appearance before the judge in which the person is identified and advised of the charges against him or her. Bail may or may not be set, depending on the nature and circumstances of the crime. The defendant has a right to request bail, but this request may be denied.
The Trial

Henry Schneider was brought to trial before the Honorable Judge Caitlin Morris. Judge Morris, District Attorney Marshfield, and Defense Attorney Alonzo interviewed potential jurors. A number of individuals were excused from jury service for various reasons and finally twelve jurors and two alternates were selected. The trial began the next day in a courtroom similar to Figure 1.3.

**COMMENTARY:** Attorneys for both sides (the prosecution and the defense) are given the chance to question potential jurors to determine whether he or she can be objective and without prejudice in deciding the defendant’s guilt or innocence. The judge may also ask questions and exclude a person he or she finds unsuitable. Each attorney may also excuse, without stating a reason, a small number of jurors believed to be unfavorable to his or her client’s interests.
Prosecutor Marshfield’s opening statement asserted that Schneider, recently divorced, planned to rob his ex-wife’s home. He was a bitter and calculating man. Schneider’s motive for this planned crime was twofold: greed and revenge. Using a key, he entered the home and stole property. He was interrupted “in the act” by his former sister-in-law. A bitter argument broke out, angry words were exchanged and a physical struggle ensued.

Whitman fought valiantly for her life, but in the end, Schneider killed her by striking a sharp blow to her head with the very candlestick he was preparing to steal. This robbery was planned, and an innocent person was killed during the commission of the crime.

Marshfield concluded by telling the jury he intended to prove his account beyond a reasonable doubt by introducing compelling evidence and credible witnesses.

**COMMENTARY:** At the beginning of a criminal trial, the prosecution has the burden of proving the defendant’s guilt beyond a reasonable doubt. In an opening statement, the prosecutor explains to the jury what the theory of the crime is, and what he or she intends to prove. This is not a presentation of evidence; rather, it’s a roadmap of where the state intends to take the jury to prove that the defendant is guilty as charged.

In our criminal justice system, a defendant is “presumed innocent until proven guilty,” and the burden of proof lies with the state (the prosecution) to prove a defendant “guilty,” not with the defense to prove a defendant “innocent.”
Next, Alonzo presented his opening statement: Whitman died as a result of a horrible accident in which Schneider was acting in self-defense. Yes, his client had entered his ex-wife’s home, but at a time he knew the house would be empty. Until recently, it had been his house too. His divorce had been costly; his ex-wife, unfairly, had been awarded most of the marital property. Schneider’s only motive in entering the house was to reclaim belongings that were rightfully his. The antique candlestick and ruby ring had been his mother’s most prized possessions. Other property of value had been left untouched.

Whitman, visiting from out-of-town, had encountered Schneider leaving the house. She began pulling on his clothes and threatened to call police. She screamed and kicked. She raked her nails across Schneider’s face, and grabbed a letter opener from a nearby desk. She lunged at Schneider and stabbed him in his lower right arm. Fearing for his life, and almost by reflex, he swung the candlestick around, hitting Whitman in the head. Afterward, he’d fled the residence in a panic. Schneider had certainly made a number of errors in judgment. But look at the facts: the only items he had in his possession at the time of his arrest were the candlestick and the ring. This wasn’t a robbery. It was a man who’d been treated unfairly trying to reclaim his rightful possessions. A horrible accident happened. But this man was defending himself; Schneider had no intent to injure or murder anyone. He was fighting for his own life and acted in self-defense.

COMMENTARY: The prosecution’s role is to question each of its witnesses so that its case is presented in a logical and accurate manner. Witnesses may include on-scene officers, neighbors, and laboratory specialists, and the defense attorney may cross-examine these witnesses if it serves the defendant’s interests. The defense attorney’s ethical obligation is to mount a vigorous defense for his or her client.

Let’s underscore a key point: it’s the legal and ethical obligation of a defense attorney to provide his or her client a vigorous defense. Defense attorneys seek to find inconsistencies or inaccuracies in witness testimony and to offer alternate explanations for the defendant’s actions. The goal is simple: to cast reasonable doubt on the state’s case so that the jury finds the defendant “not guilty.”
The defense is not required to present its side. In some cases, a defense attorney may assert that the state’s case is so weak and lacking in substance that no reasonable person could convict his or her client on such flimsy evidence. The defense attorney would communicate this to the court by saying, “The defense rests.”

On the other hand, the defense may decide to put on its own case and present witnesses who support its position. Also, and here’s a very important point: the defense may or may not decide to have the defendant testify in his or her own behalf. Whether or not the accused takes the witness stand is entirely at the discretion of the defense attorney and the accused. The jury cannot take the lack of testifying as an admission of the defendant’s guilt.

Alonzo called only one witness: the defendant himself. Schneider told his story. He’d gone through a bitter divorce and lost everything: his home, and most of his possessions. He became so depressed that he’d lost his job and couldn’t find work. He wasn’t robbing his ex-wife’s house — he’d only come to reclaim his rightful property at a time when he knew the house would be empty.

“See for yourself,” he said. “I didn’t take anything else. There was money in the house, computers, other jewelry. I didn’t take that. The ring and the candlestick were my mother’s. She’d turn over in her grave if I didn’t get them back. I was shocked to see Mary. She attacked me — I was trying to leave. She wouldn’t let go and scratched my face. She stabbed me in the arm with a letter opener. I had to defend myself. I swung my arm around and hit her with the candlestick. I didn’t intend to kill her — just wanted to stop her from attacking me. This was self-defense. Doesn’t everybody have that right?”

Marshfield conducted a vigorous cross-examination of Schneider, but was unable to shake the defendant’s basic assertions: he was reclaiming his property from the house, there was no robbery intended; and Whitman had been killed in self-defense.
The Criminal Justice System

The Trial’s Conclusion

At the end of testimony, both the prosecution and the defense made closing statements and rested their cases. Judge Morris gave instructions to the jury on the relevant law that applied to the case and what charges they might consider. The jury began its deliberations.

After two days of deliberations, the jury found Schneider “not guilty” of second-degree murder and “not guilty” of breaking and entering, but instead found him “guilty” of voluntary manslaughter. Judge Morris directed Probation Officer Gunther Johnson to prepare a pre-sentence report.

Resource - There are many career opportunities within the criminal court system. Attorneys serve as prosecutors and defense counsel. Paralegals compile the vast and intricate documents and conduct much of the research for attorneys. Many prosecutors’ offices employ their own staff of criminal investigators. Courts are staffed with clerks, bailiffs, marshals, recorders, interpreters and others.

What’s that term?

Probation officers serve a key function, not only in monitoring and working with those who have been sentenced, but also in conducting pre-sentence investigations. Such reports are often used to determine the most appropriate punishment for those who have been convicted of committing a crime.

Johnson reviewed Schneider’s history and interviewed family members and former co-workers. Johnson found that the divorce had taken a heavy toll on Schneider, and that he suffered from depression, had been drinking heavily, and had great difficulty dealing with anger. Before the divorce, Schneider had no criminal history and had been gainfully employed. Johnson submitted a report to Judge Morris, who sentenced Schneider to fifteen years in prison.