

Basic Course Workbook Series



Learning Domain 02

Criminal Justice System

Version 7.0

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

**Basic Course Workbook Series
Student Materials
Learning Domain 02
Criminal Justice System
Version 7.0**

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THE MISSION OF POST

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

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Student Workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course Training Requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student Workbook Elements

The following elements are included in each workbook:

- Chapter contents, including a synopsis of key points,
- Supplementary material, and
- A glossary of terms used in this workbook.

HOW TO USE THE WORKBOOK

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning, for test preparation, and for remedial training.

Workbook Format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Introduction and How to Use the Workbook, which provides an overview of how the workbook fits into the POST Basic Course Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary section for a definition of important terms. When first referenced these terms will be bolded and underlined (e.g., <u>term</u>).

Chapter 1

Introduction to the Criminal Justice System

OVERVIEW

Learning Need

To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">Identify the freedoms and rights afforded to individuals under the U.S. Constitution, the Bill of Rights, and later amendments	2.01.1
<ul style="list-style-type: none">Identify how the U.S. Constitution amendments apply to the actions and conduct of peace officers<ul style="list-style-type: none">First AmendmentFourth AmendmentFifth AmendmentSixth AmendmentEighth AmendmentFourteenth Amendment	2.01.2 2.01.3 2.01.4 2.01.5 2.01.6 2.01.7
<ul style="list-style-type: none">Discuss the components and primary goals of the criminal justice system	2.01.8

In This Chapter

This chapter focuses on the constitutionally protected rights of individuals and how those rights apply to the criminal justice system. Refer to the table below for a specific topic.

Topic	See Page
Constitutionally Protected Rights	1-3
Criminal Justice System	1-12
Chapter Synopsis	1-14
Workbook Learning Activities	1-15

CONSTITUTIONALLY PROTECTED RIGHTS

Introduction

A **constitution** is a written document that embodies the basic laws of a nation or state. The U.S. Constitution as well as the California Constitution identifies the powers and duties of the government and the rights that are afforded to all individuals in our country or state.

U.S. Constitution

The U.S. Constitution sets forth the highest law of the land which all public officials are bound by oath to enforce. It became effective in 1789 upon ratification by nine of the thirteen states (all remaining states ratified it by May 1790). Today the U.S. Constitution remains the longest lasting written constitution in the world.

The authors of the U.S. Constitution established this document “in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty.”

Framework of Government

The U.S. Constitution establishes the basic framework of government, dividing the lawmaking power among three branches of government. Each branch is separate and has the power to restrain the other branches.

The branches of government include the:

- Executive branch
- Legislative branch
- Judicial branch

Bill of Rights

Along with establishing the powers of government, the U.S. Constitution places limits on those powers. The original U.S. Constitution contained only a few provisions guaranteeing individual rights.

The first session of the U.S. Congress proposed ten amendments or changes to the constitution to further clarify the rights of individuals under the U.S. Constitution. These amendments, commonly referred to as the Bill of Rights were sent to the states and were ratified in December 1791.

Since that time additional amendments have been added to the U.S. Constitution. Today there are 27 amendments. The Bill of Rights and the later amendments limit the power of state and local governments as well as the federal government.

Ethics

The criminal justice system gives law enforcement two extraordinary powers:

- The power of arrest
- The power to use deadly force

The authority to do so does not come from the rule of an authoritarian dictator. Rather it comes from the will and consent of the people who put their trust in law enforcement to use that power with the utmost of care and restraint. This is why it is important to emphasize that peace officers do not confer “police powers” on themselves. These powers come to the criminal justice system from the people they serve.

Basic Rights and Freedoms

The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship*. The following table identifies a number of the freedoms and rights which cannot be taken away by the government.

Law Enforcement and Basic Rights

Law enforcement officers are bound to protect the rights and freedoms of *all* individuals as guaranteed in the U.S. Constitution, Bill of Rights, and later amendments. By abiding by the principles of procedural justice, peace officers will ensure agreement with all Constitutional Amendments.

Six amendments have direct impact on peace officers' actions and conduct.

Amendment	Basic Rights and Freedoms
First	<ul style="list-style-type: none">• Freedom of religion• Freedom of speech• Freedom of the press• Freedom of assembly• Right to petition the government for a redress of grievances
Fourth	<ul style="list-style-type: none">• Freedom from unreasonable searches and seizures
Fifth	<ul style="list-style-type: none">• Freedom from being tried twice for the same crime• Freedom from self-incrimination
Sixth	<ul style="list-style-type: none">• Right to be told of charges when arrested• Right to a speedy trial• Right to a public trial by an impartial jury• Right to confront witnesses• Right to counsel
Eighth	<ul style="list-style-type: none">• Freedom from excessive <u>bail</u>• Freedom from cruel and unusual punishments
Fourteenth	<ul style="list-style-type: none">• Basic right of a defendant in a judicial proceeding• The requisites for trial (<u>due process</u>)• Right to equal protection of the laws

First Amendment

Peace officers are required to ensure that a person's First Amendment rights are protected and enforced, by allowing individuals to speak freely, exercise their religious beliefs, and peaceably assemble. It is also the responsibility of peace officers to protect these individual rights against infringement by others.

Amendment I - Restrictions on Powers of Congress	
Text	"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people to peaceably assemble, and to petition the individual's Government for a redress of grievances."
Elements	<ul style="list-style-type: none">• Separation of church and state• Government cannot endorse any religion• All individuals must be allowed to worship, or not worship, as they choose• All individuals have the right to freedom of expression of their ideas (i.e., freedom of speech, press, and assembly)• Individuals who feel they have been wronged have the right to petition the government to rectify the circumstances
Provisions	<ul style="list-style-type: none">• The rights of free speech must be exercised reasonably. Individuals do not have the right to:<ul style="list-style-type: none">- shout "fire!" in a crowded auditorium- scream or shout to the point of disturbing the peace- disturb an orderly assembly, a church service, or a session of the court- incite a riot- urge others to commit a crime- accost others in a public place with language likely to produce a violent response- falsely report the presence of an explosive device (bomb)

Fourth Amendment

All peace officers must respect each individual's right to be secure in his or her home, papers, and belongings against unreasonable search and seizure. To protect those rights, officers must be aware of and abide by warrant requirements and related procedures which must be followed when obtaining a warrant.

Amendment IV - Searches, Seizures, and Warrants	
Text	"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."
Elements	<ul style="list-style-type: none">• <i>Unreasonable</i> searches and seizures are not allowed• Search and arrest warrants must show <i>probable cause</i> and must specifically identify items or individuals to be searched or seized
Provisions	<ul style="list-style-type: none">• The Fourth Amendment does <i>not</i> give individuals an <i>absolute right</i> to privacy; neither does it prohibit all searches• When performing a legal arrest, officers may thoroughly search a person along with that person's effects for any weapons and/or contraband without a warrant. Officers may also properly seize such items for use as evidence• An individual's home may not be used as a place of refuge for criminals• On fresh and immediate pursuit, officers may follow a criminal who has taken refuge in a house or building, and may force their way into the building without a warrant to make the arrest

NOTE: The provisions of the Fourth Amendment are discussed in greater detail in Learning Domain 16: Search and Seizure.

Fifth Amendment

Peace officers need to understand the relationship between a person's right against self-incrimination and their responsibility to advise individuals of their right to remain silent when applicable.

Amendment V - Criminal Proceedings, Condemnation of Property	
Text	"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."
Elements	<ul style="list-style-type: none">• Protection against a second prosecution after acquittal or conviction (double jeopardy)• Protection against self-incrimination<ul style="list-style-type: none">- Due process before legal actions
Provisions	<ul style="list-style-type: none">• Individuals may not be tried for the same offense twice• Individuals cannot be compelled to testify against themselves at a criminal case• Individuals must be afforded due process of law before they can be deprived of life, liberty, or property

Sixth Amendment

Officers must be aware of and respect the constitutional rights of all individuals concerning criminal procedure. The Sixth Amendment entitles a suspect to the assistance of counsel once adversary judicial proceedings have commenced. This right also affects an officer's ability to question a suspect and obtain admissible statements.

Amendment VI - Mode of Trial in Criminal Proceedings	
Text	"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."
Elements	<ul style="list-style-type: none">• Individuals who have been accused of a crime have the right to:<ul style="list-style-type: none">- A speedy and public trial by a jury- Be informed of the accusations against them- Confront their accusers- Subpoena witnesses for their defense- Have legal counsel
Provisions	<ul style="list-style-type: none">• Any violation of the rights noted in this amendment may result in:<ul style="list-style-type: none">- Exclusion of evidence- Dismissal of the case and/or- Criminal liability to the officer or the officer's agency

NOTE: Peace officers should take care not to refer a defendant to any particular attorney, as this would be a conflict of interest.

Eighth Amendment

The purpose of bail is to ensure the return of the suspect at subsequent proceedings. Unless the right to bail before trial is preserved, the presumption of innocence would lose its meaning.

When an assignment involves the supervision of prisoners, it becomes the officer's responsibility to safeguard all prisoners' rights to be protected from cruel and unusual punishment.

Amendment VIII - Bails, Fines, Punishments	
Text	"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."
Elements	<ul style="list-style-type: none">• Excessive bails and fines are not allowed<ul style="list-style-type: none">- Punishment must be reasonable based on the crime
Provisions	<ul style="list-style-type: none">• Defendants have a right to bail before conviction to permit the unhampered preparation of a defense• Bail serves to prevent the infliction of punishment prior to conviction• The courts have established limitations on what is acceptable punishment, thereby defining "cruel and unusual" punishment<ul style="list-style-type: none">- Punishments of torture (such as drawing and quartering, disemboweling alive, beheading, public dissecting, and burning alive) and all others in the same line of unnecessary cruelty are forbidden by this amendment

NOTE: Prisoners can be informed of their rights, but officers are not allowed to refer any prisoner to a particular bail agent.

Fourteenth Amendment

The Fourteenth Amendment was added to the Bill of Rights in 1868 after the Civil War. It has led the way to ensuring that peace officers apply the law equally to all people regardless of race, creed, nationality, religious preference, national origin, wealth, or status.

Amendment XIV - Citizenship, Due Process, and Equal Protection	
Text	“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
Elements	<ul style="list-style-type: none">• No state may:<ul style="list-style-type: none">- limit privileges or immunities of U.S. citizens- deny due process of the law to any person- deny equal protection of the law to any person
Provisions	<ul style="list-style-type: none">• Persons protected under the U.S. Constitution cannot be denied life, freedom, or their property without a course of legal proceedings by the government justifying the action• Due process of the law begins at the point of the initial investigation<ul style="list-style-type: none">- States may provide further rights not defined by the U.S. Constitution

CRIMINAL JUSTICE SYSTEM

Introduction

The criminal justice system is a complex structure through which individuals suspected of a crime are apprehended by a law enforcement component, accused and tried by a judicial component, and if convicted, punished by a corrections component.

Leadership

The criminal justice system can be frightening and frustrating to law-abiding community members. Court delays, testifying, cross-examination, and legal fees can all be viewed as indignities over and above the original victimization. Peace officers must act as leaders by helping others to understand and respect the processes designed to protect an individual's rights.

Components and Primary Goals

The criminal justice system is made up of three components:

- Law enforcement
- Judicial
- Corrections

Each component has its own unique function, departments, and goals. For the criminal justice system as a whole to meet its major goals, each component must function together with the others as a *total system*, rather than as a collection of independent agencies and organizations.

There are seven primary goals of the criminal justice system. Ideally, each should be considered equal; yet in reality, a particular goal may be considered more important by one component or individual within the criminal justice system.

The following table identifies the primary goals of the criminal justice system.

Goal	Additional Information
Guarantee Due Process	<ul style="list-style-type: none"> • Due process of the law is guaranteed by the U.S. and California Constitutions, overseen by the courts, and practiced daily by peace officers
Prevent Crime	<ul style="list-style-type: none"> • Crime prevention is more than the apprehension of offenders • Peace officer presence in the community and interactions with citizens also serves to prevent crime
Protect Life and Property	<ul style="list-style-type: none"> • Peace officers must be dedicated to protect and defend the members of their communities as well as those individuals' property
Uphold and Enforce the Law	<ul style="list-style-type: none"> • The law enforcement component of the justice system has the <i>primary</i> responsibility to uphold the law • The judiciary system, through rulings of the court, and the corrections component also play a role in enforcement
Dispense Equal Justice	<ul style="list-style-type: none"> • The Fourteenth Amendment of the U.S. Constitution guarantees equal justice under the law to all persons • Individuals from each component of the criminal justice system must treat all persons equally, fairly, and with justice
Apprehend Offenders	<ul style="list-style-type: none"> • Apprehending offenders deprives them of their liberty and requires them to answer the criminal charges brought against them
Assure Victim's Rights	<ul style="list-style-type: none"> • In the effort to apprehend and deal with the criminal, the criminal justice system cannot overlook the victim • Victims must be made aware of their rights and of the services that are available to them

Learning Need

To be effective leaders, peace officers must be aware of the constitutional rights of all individuals within the United States, regardless of citizenship status, and the role the criminal justice system has in protecting those rights.

Constitutionally Protected Rights [2.01.1]

The basic rights and freedoms protected by the U.S. Constitution and its amendments apply to all individuals in the United States *regardless of citizenship status*

Components and Primary Goals [2.01.8]

Procedural Justice (Voice, Neutrality, Respect, and Trustworthiness)

An approach to policing based on giving people the opportunity to tell their story, remaining neutral in the decision-making and behavior, treating people with respect, and explaining actions in a way that communicates caring for people's concerns to demonstrate trustworthiness.

The criminal justice system is made up of three components:

- Law enforcement
- Judicial
- Corrections

There are seven primary goals of the criminal justice system:

- Guarantee due process of the law
- Prevent crime
- Protect life and property
- Uphold and enforce the law
- Dispense equal justice
- Apprehend offenders
- Assure victims' rights

WORKBOOK LEARNING ACTIVITIES

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. Specifically, whose rights are protected by the U.S. Constitution and its amendments? Would an illegal alien enjoy these protections? How about a person traveling in the country as a tourist?
2. List the three primary components of the criminal justice system. In your own words, describe how you think each component complements the others.

3. Without looking back into the chapter, list as many of the primary goals of the criminal justice system as you can. Which one(s) do you most closely associate with your own reason(s) for pursuing a career in law enforcement? Explain your answer.
4. A woman disrupted a community meeting by loudly shouting unflattering comments about the town's mayor. When the woman was removed from the meeting by peace officers, she shouted, "You're violating my constitutional rights! I have a right to my opinions! I have a right to be heard!" Is her statement correct? Explain the rationale for your answer.

5. Match the rights and privileges in the left column with the appropriate Amendment in the right column.

Right/Freedom	Amendment
a. Freedom from self-incrimination	_____ First Amendment
b. Freedom from excessive bail	_____
c. Freedom of the press	_____ Fourth Amendment
d. Right to equal protection of the law	_____
e. Freedom from unreasonable searches and seizures	_____ Fifth Amendment
f. Right to a public trial by an impartial jury	_____ Sixth Amendment
g. Freedom of speech	_____ Eighth Amendment
h. Right to due process	_____
i. Right to be told of charges when arrested	_____ Fourteenth Amendment
j. Right to counsel	_____
k. Freedom from cruel and unusual punishment	_____

Chapter 2

Law Enforcement

OVERVIEW

Learning Need

Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Learning Objectives

The chart below identifies the student learning objectives for this chapter

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">List the primary federal, state, and local law enforcement agencies within the criminal justice system	2.02.14

In This Chapter

This chapter focuses on law enforcement agencies that comprise the law enforcement component of the criminal justice system. Refer to the chart below for a specific topic.

Topic	See Page
Law Enforcement Agencies	2-2
Chapter Synopsis	2-4
Workbook Learning Activities	2-5

LAW ENFORCEMENT AGENCIES

Introduction

There are many federal, state and local law enforcement agencies that are part of the criminal justice system.

Agencies with Law Enforcement Responsibilities in California

Federal, state and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law. Some examples of such agencies are noted in the following table:

Federal Agencies

- U. S. Department of Homeland Security
- Federal Bureau of Investigation (FBI)
- Drug Enforcement Administration (DEA)
- U. S. Marshal Service
- Immigration and Customs Enforcement (ICE)
- Alcohol, Tobacco, and Firearms Division (ATF)
- Secret Service (SS)
- U.S. Postal Inspectors (USPS)
- Armed Forces Police

State Agencies

- Youth and Adult Correctional Agency
- California Highway Patrol (CHP)
- Department of Alcoholic Beverage Control (ABC)
- Department of Fish and Wildlife (DFW)
- Department of Forestry and Fire Protection (DOF)
- Department of Justice (DOJ)
- Department of Insurance (DOI)
- Department of Motor Vehicles (DMV)
- Department of Parks and Recreation/CA State Parks (DPR)
- Franchise Tax Board (FTB)
- Office of State Fire Marshal (SFM)
- University/College Police Departments
- Department of Health Services (CDHS)

Local Agencies

Airport Police
County Marshals
Housing Police
Municipal Police
School District Police
Sheriffs' Departments
Transportation Police
Port Authority Police

Learning Need

Peace officers must realize that law enforcement is not solely the function of police and sheriff agencies. There are many other federal, state, and local law enforcement agencies that are part of the criminal justice system.

Law Enforcement Agencies with Responsibilities in California [2.02.14]

Federal, state, and local agencies have law enforcement responsibilities in California. Specific law enforcement authority (e.g., arrest/firearm authority) for each is determined by law

WORKBOOK LEARNING ACTIVITIES

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. List agencies with law enforcement responsibilities in California:
 - a) Federal agencies (list four):

 - b) State agencies (list six):

 - c) Local Agencies (list five):
2. Describe a situation where Federal and State agencies might work together to resolve a law enforcement problem.

3. Give an example of an incident in which two or more local law enforcement agencies might combine efforts.

Chapter 3

Judicial System

OVERVIEW

Learning Need

Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Learning Objectives

The chart below identifies the student learning objectives for this chapter

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">Discuss the objectives of the Judicial component of the criminal justice system	2.03.10
<ul style="list-style-type: none">Discuss the organization of the California court system, including positions commonly recognized as part of the judicial system	2.03.11
<ul style="list-style-type: none">Discuss the judicial process in criminal cases	2.03.12

In This Chapter

This chapter focuses on the judicial system. Refer to the chart below for a specific topic.

Topic	See Page
California Court System	3-2
Judicial Process for Criminal Cases	3-4
Chapter Synopsis	3-7
Workbook Learning Activities	3-8

CALIFORNIA COURT SYSTEM

Introduction

According to the U.S. Constitution, the judicial power of the United States shall be vested in one Supreme Court “and such inferior courts as Congress may deem necessary.” This system of higher and lower courts makes up the judicial component of the criminal justice system.

Judicial System Objectives

The objectives of the judicial component of the criminal justice system include:

- Providing due process of the law
- Rendering fair judgments
- Dispensing just punishment
- Assuring victim’s rights

California Court System Organization and Positions

The California court system is based upon the federal system. It is comprised of one State Supreme Court, lower **trial courts**, and higher courts called **appellate courts** to listen to **appeals** from the lower courts. The following table identifies the primary functions of the two levels of courts.

Level	Court	Primary Function
Lower	Trial Courts	<ul style="list-style-type: none">• Receive evidence and consider cases involving criminal activity or civil disputes
Higher	Appellate Courts	<ul style="list-style-type: none">• Referred to as the <i>higher courts</i> of the judicial system• Hear appeals from lower trial courts

Several positions are commonly recognized as part of the judicial component of the criminal justice system. The following table identifies the primary positions within the judicial system.

Responsibilities	
Judges	<ul style="list-style-type: none">• Administering justice in a fair and impartial manner by applying the facts of the law
Prosecuting Attorneys	<ul style="list-style-type: none">• Prosecuting individuals accused of criminal activities• Protecting public rights and privileges
Defense Attorneys	<ul style="list-style-type: none">• Defending the accused• Defending the rights and privileges of citizens

JUDICIAL PROCESS FOR CRIMINAL CASES

Introduction

In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime. The function of the judicial process in criminal cases is to determine a defendant's guilt or innocence.

Judicial Process

Before a criminal case reaches **trial**, several preliminary proceedings must occur. The basic steps in a felony prosecution are shown below.

Steps	Description
<u>Arrest</u>	Taking a person into custody <ul style="list-style-type: none">• In a case• In the manner authorized by law
<u>Arraignment</u>	The legal procedure where the court informs defendants of <ul style="list-style-type: none">• The nature of the charges against them• Their eligibility for bail• Their constitutional rights to<ul style="list-style-type: none">- Counsel at all stages of the judicial process- Plead guilty or not guilty to the charges, and- A trial by court or by a jury
<u>Right to Bail</u>	A defendant's constitutional right to <ul style="list-style-type: none">• Reasonable bail<ul style="list-style-type: none">- To permit the unhampered preparation of a defense before trial

Proceedings	Description
<u>Bail</u>	<ul style="list-style-type: none"> • <u>Right to Bail</u> - A defendant's constitutional right to reasonable bail <ul style="list-style-type: none"> - To permit the unhampered preparation of a defense before trial • A security deposited with a competent court or magistrate • to ensure that the accused person will appear for trial when summoned
<u>Preliminary hearing</u>	<p>A screening procedure used in felony cases to determine</p> <ul style="list-style-type: none"> • If there is enough evidence <ul style="list-style-type: none"> - To hold a defendant for trial
<u>Indictment</u>	<ul style="list-style-type: none"> • An indictment is an accusation in writing formally charging a person with a crime or public offense • Many states, including California, also use the grand jury indictment process to bring serious felony criminal cases to trial • It is the grand jury's responsibility to determine if there is sufficient cause to believe that a person has committed a crime and should be made to stand trial • A grand jury indictment is filed with the superior court by the district attorney. The court then issues a warrant and the offender is arrested. The defendant is then held for arraignment in superior court
<u>Trial</u>	<ul style="list-style-type: none"> • A formal, judicial examination and determination • of issues (law or fact) between parties
<u>Sentencing</u>	<p>A judgment that is formally pronounced by the court</p> <ul style="list-style-type: none"> • Upon the defendant <ul style="list-style-type: none"> - After conviction - In a criminal prosecution
<u>Grand Jury</u>	<p>A body of a set number of citizens from within a county</p> <ul style="list-style-type: none"> • Sworn to receive <ul style="list-style-type: none"> - Complaints and - Accusations in criminal cases • Responsible for determining if there is sufficient cause to believe that an individual <ul style="list-style-type: none"> - Has committed a crime and - Should be made to stand trial

Learning Need

Peace officers must understand the judicial component of the criminal justice system because much of their work results in cases that go to court.

Judicial System Objectives [2.03.10]

The objectives of the judicial component of the criminal justice system include providing due process of the law, rendering fair judgments, dispensing just punishment, and assuring victim's rights

California Court System Organization and Positions [2.03.11]

The California court system is based upon the federal system. It is comprised of:

- One State Supreme Court
- Lower trial courts
- Higher courts, called appellate courts
 - To listen to appeals from the lower courts

There are several positions commonly recognized as part of the judicial component of the criminal justice system. The primary positions are judges, magistrates, prosecuting attorneys, and defense attorneys

Judicial Process [2.03.12]

In criminal cases the judicial process begins once an offender has been arrested or indicted for a crime

WORKBOOK LEARNING ACTIVITIES

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. A 23-year-old male is arrested in California for possession of cocaine base for sale, a felony. Outline the step-by-step judicial process that must take place to bring the suspect to trial.
2. List the primary positions commonly recognized as part of the judicial system and describe their responsibilities.

3. List the different levels of courts in the California court system, and their primary functions.

4. What are the differences between an arraignment and a preliminary hearing?
What takes place during each procedure?

Arraignment	Preliminary Hearing

Chapter 4

Corrections, Parole and Probation

OVERVIEW

Learning Need

Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Learning Objectives

The chart below identifies the student learning objectives for this chapter

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">• Discuss the objectives and responsibilities of the correction's component of the criminal justice system	2.04.1
<ul style="list-style-type: none">• Recall the definitions of parole and probation	2.04.3 2.04.4
<ul style="list-style-type: none">• Identify the differences between<ul style="list-style-type: none">- parole- probation	2.04.5 2.04.6

In This Chapter

This chapter focuses on the corrections system. Refer to the chart below for a specific topic.

Topic	See Page
Corrections	4-3
Parole and Probation	4-5
Chapter Synopsis	4-9
Workbook Learning Activities	4-10

Introduction

When an offender is arrested by law enforcement and found guilty by the judicial process, the government has the right to punish the offender. A wide range of punishment and treatment options are available to the government.

Corrections Objectives

The objectives of the corrections component of the criminal justice system include:

- Confining prisoners
- Rehabilitating prisoners
- Supervising parolees and probationers in the community
- Assuring victim's rights

Corrections Agencies' Responsibilities

The State of California and local agencies have distinct responsibilities in the corrections component of the criminal justice system.

The California Department of Corrections and Rehabilitation (CDCR) of the State of California is responsible for the oversight of both major components of the state's correctional system for convicted felons:

- CDCR is responsible for the incarceration of convicted adults (generally 18 years or older)
 - The Board of Prison Terms (BOPT) is responsible for the administration of parole conditions of prisoners (18 years or older) released from CDC institutions
- The CDCR is responsible for the incarceration of convicted youthful offenders (generally ages 13 years to 25 years of age)
 - The Youthful Offender Parole Board (YOPB) is responsible for the administration of parole conditions of wards (13 years to 25 years of age) released from the custody of CDCR - Juvenile Division

The following table identifies these responsibilities.

Department	Responsibilities
California Department of Corrections (CDC)	<ul style="list-style-type: none">• operates the State's adult prison system• confines felons who have been sentenced to state prison
California Board of Prison Terms	<ul style="list-style-type: none">• supervises inmates who have been released on parole from CDCR
California Department of Corrections and Rehabilitation – Juvenile Division	<ul style="list-style-type: none">• operates the State's youthful offender detention system• confines offenders (wards) between the ages of 13 and 25
Youthful Offender Parole Board (YOPB)	<ul style="list-style-type: none">• supervises wards who have been released on parole from CDCR – Juvenile Division
Local Government Agencies	<ul style="list-style-type: none">• oversees the operation of detention facilities that confine people<ul style="list-style-type: none">- awaiting trial- sentenced to less than one year

PAROLE AND PROBATION

Introduction

The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community.

Parole vs Probation

The following table provides definitions and descriptions of **parole** and **probation**.

	<i>Parole is...</i>	<i>Probation is...</i>
Administered by	<ul style="list-style-type: none">• Parole and Community Services of the CDCR, or• CDCR – Juvenile Division	<ul style="list-style-type: none">• County probation departments
Definition	<ul style="list-style-type: none">• A conditional release from a state prison which allows an individual to serve the remainder of a sentence	<ul style="list-style-type: none">• The suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community <i>Penal Code Section 1203</i>)• A sentencing option for an individual convicted of a criminal offense

	<i>Parole is...</i>	<i>Probation is...</i>
Imposition	<ul style="list-style-type: none"> • Imposed by an administrative board at a parole hearing • Dependent upon: <ul style="list-style-type: none"> - Statutory requirements - The type of sentence being served - Institutional recommendations 	<ul style="list-style-type: none"> • Imposed at the court's discretion in the county where the offense occurred
Revocable by	<ul style="list-style-type: none"> • Parole agent • Administrative board review 	<ul style="list-style-type: none"> • Probation officer recommendation • Court enactment

Conditions

Several general conditions of parole and probation may be imposed on a convicted person. The following table identifies these conditions.

Conditions of <i>Parole</i>	Conditions of <i>Probation</i>
<p>Parolees must:</p> <ul style="list-style-type: none">• Comply with all instructions of their parole officers• Not travel more than 50 miles from their residence without prior approval from their parole officers• Not be absent from their county of residence for more than 48 hours or leave the state of California without prior written approval from their parole officers• Inform their parole officers within 72 hours of any change of employment, employment location, or termination of employment	<p>Probationers are commonly required to:</p> <ul style="list-style-type: none">• Comply with all instructions of and maintain contact with their probation officer• Not use alcohol or other intoxicants• Not associate with certain specified individuals• Not possess firearms or other weapons

Conditions of <i>Parole</i>	Conditions of <i>Probation</i>
<ul style="list-style-type: none"> • Not engage in conduct prohibited by law; must inform their parole officers if they are arrested for a felony or misdemeanor crime • Not own, use, have access to, or have under their control any: <ul style="list-style-type: none"> - Firearm, ammunition, or weapon listed in <i>penal code section 12020</i> - Knife with a blade longer than two inches • The officer must know about the parole conditions before the search. An officer may conduct a parole search without reasonable suspicion but cannot conduct a parole search for arbitrary, capricious or harassment reasons 	<ul style="list-style-type: none"> • Probationers <i>may</i> be required to: • Serve time in jail as an alternative to prison • Pay a fine • Make restitution • Secure a bond • Participate on work projects • Submit to drug testing • Submit to warrantless searches at any time without reasonable suspicion of criminal activity on the part of the probationer

Summary Probation

Probationary conditions ordered by the court, following a conviction. A probation officer does not formally supervise a person on summary probation. Only the court can sanction a summary probationer for violations of the conditions of summary probation (*Penal Code Section 1203(b)*).

Generally, officers cannot arrest a person for violation of summary probation. Officers must submit a report to the court notifying the court of the violation of the terms of the subject's summary probation.

Learning Need

Peace officers should recognize that the California Department of Corrections and Rehabilitation (CDCR) is a component of the criminal justice system. Officers must also be familiar with the differences between parole and probation conditions, and their role in the enforcement of those conditions.

Corrections Objectives and Responsibilities [2.04.1]

The objectives of the corrections component of the criminal justice system include:

- Confining prisoners
- Rehabilitating prisoners
- Supervising parolees and probationers in the community
- Assuring victim's rights

Parole and Probation [2.04.3, 2.04.4]

The primary role of both parole and probation is to protect the community from future criminal acts of individuals who have been convicted of a crime, imprisoned and subsequently released back into the community

Differences Between Parole and Probation [2.04.5, 2.04.6]

Parole is a conditional release from a state prison which allows an individual to serve the remainder of a sentence

Probation is the suspension of the imposition or execution of a sentence and the order (by the court) of conditional and revocable release in(to) the community. *Penal Code Section 1203*), a sentencing option for an individual convicted of a criminal offense

WORKBOOK LEARNING ACTIVITIES

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity Questions

1. Consider the stated objectives of the corrections component of the justice system. How do these objectives serve to aid in attaining the major goals of the entire criminal justice system?

2. In your own words, describe the differences between parole and probation.

3. John Wilson is on parole and would like to attend his niece's wedding in another state. What conditions must he meet in order to make the trip? How long can he remain? What must he do if he wishes to stay longer than the allotted time period? How would your answers differ if he were on probation rather than parole?

STUDENT NOTES

Glossary

Introduction

The key vocabulary terms for Learning Domain 02: Criminal Justice System are listed below with the definitions as they apply to this workbook.

Amendments

Modifications or changes made for the better, such as amendments to the U.S. Constitution

Appeals

Requests to a higher court to review or revise decisions made by lower court

Appellate courts

Referred to as the higher courts of the judicial system; hear appeals from lower trial courts

Arrest

Taking a person into custody in a case, and in the manner authorized by the law

Arraignment

Legal procedure where the court informs defendants of the nature of the charges against them and of their constitutional rights to have counsel, to plead guilty or not guilty, and to have a jury trial

Bail

A security deposited with a competent court or magistrate to ensure that the accused person will appear for trial when summoned

Bill of Rights

The first ten amendments to the U.S. Constitution

Competent court

Any court, civil or criminal, having authority to handle a particular case

Constitution

A written document that embodies the basic laws of a nation or state

Due process

A course of legal proceedings according to the rules and principles which have been established by the government; basic rights of a defendant in judicial proceedings and the requisites for a fair trial

Grand jury

A body of a set number of citizens from within the county who are sworn to receive complaints and accusation in criminal cases; responsible for determining if there is sufficient cause to believe a person has committed a crime and should be made to stand trial

Indictment

An accusation in writing formally charging a person with a crime or public offense

Magistrate

An officer of the court having power to issue a warrant for the arrest of a person charged with a public offense

Parole

A conditional release from confinement which allows an individual to serve the remainder of a sentence outside of prison

Preliminary hearing

A screening procedure used in felony cases to determine if there is enough evidence to hold a defendant for trial

Probation

A sentencing option for an individual convicted of a criminal offense

Right to bail

A defendant's constitutional right to reasonable bail to permit the unhampered preparation of a defense before trial

Sentencing

A judgment that is formally pronounced by the court upon a defendant after conviction in a criminal trial

Trial

A formal judicial examination and determination of issues (law or fact) between parties

Trial courts

Referred to as the lower courts; receive evidence and consider cases involving criminal activity or civil disputes