

Course Learning Outcomes for Unit VIII

Upon completion of this unit, students should be able to:

7. Contrast the characteristics of juvenile courts with those of adult courts.
 - 7.1 Identify the differing characteristics on juvenile courts with adult courts during criminal trials, including sentencing.
 - 7.2 Explain whether teenagers accused of violent crimes should be tried as adults.

Course/Unit Learning Outcomes	Learning Activity
7.1	Unit Lesson All required reading Unit VIII Assignment
7.2	Unit Lesson All required reading Unit VIII Assignment

Reading Assignment

In order to access the following resources, click the links below:

Irving, D. (2016). How will technology change criminal justice? Retrieved from <https://www.rand.org/blog/rand-review/2016/01/how-will-technology-change-criminal-justice.html>

National Institute of Justice. (2013). Program profile: Adolescent diversion project (Michigan State University). Retrieved from <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=332>

National Institute of Justice. (2011). Program profile: Alley-gating in Liverpool (England). Retrieved from <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=135>

National Institute of Justice. (2011). Program profile: Biting back in Huddersfield (England). Retrieved from <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=126>

National Institute of Justice. (2011). Program profile: Brooklyn (NY) treatment court. Retrieved from <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=44>

National Institute of Justice. (2011). Program profile: Checkpoint Tennessee. Retrieved from <https://www.crimesolutions.gov/ProgramDetails.aspx?ID=136>

Unit Lesson

Technology and Criminal Justice

The seemingly progressive increase in technology that has criminal justice implications has and will continue. Many improvements in technology could have consequences for civil liberties and personal privacy. Even Justice Scalia writing for the majority in the *Kyllo* case noted that opinions of the U.S. Supreme Court had to take into account the Fourth Amendment's rights as being impacted by more sophisticated systems than crude thermal imaging devices used in 1991 to convict *Kyllo* (*Kyllo v. United States*, 2001). Justice Scalia supported the majority's opinion that using a thermal imaging device to scan a residence and explore details

of the interior that would have been previously unknowable without physical intrusion was a search and was unreasonable without a warrant. He stated that the Fourth Amendment must be interpreted in a way that serves both the public interest and the rights of individual citizens (*Carroll v. United States*, 1925).

Vest cameras: As with all technology, there appears to be an upside and a downside. Vest cameras worn by law enforcement officers are no exception. There is the logical assumption that cameras provide better evidence documentation, increased accountability, and transparency of law enforcement. On the other hand, the cost of implementing body-worn cameras include not only the cost of the cameras but also any ancillary equipment such as tablets that allow officers to tag data in the field; these costs include data storage and management, training, administration, and disclosure of constitutional rights issues that may surface.

An easy issue to resolve concerns the Fourth Amendment; an enforcement officer's record of arrest provides supportive information on all aspects surrounding the arrest. Any adjudicator may review the visual evidence and confirm or deny the arresting officer's written report. This opens the discussion on the motive behind requiring law enforcement personnel to wear cameras.

The shooting death of Michael Brown in a St. Louis suburb and the aftermath of violence that followed a grand jury's decision not to indict the shooting officer brings to mind John Stuart Mill's position that general ignorance and lack of a belief in representative government are the basis for its disintegration (Mill, 2000). If all citizens do not respect the functions of a properly instituted representative government, it will eventually fail. Had Officer Darren Wilson been wearing a body camera, which would have recorded the events leading to the shooting, many citizens in the nation likely would not have rioted against authority. As Mill noted, citizens must support representative forms of government, or the government will not survive (Mill, 2000). The rioting citizens did not accept the decision of the grand jury, which met for over 70 hours on 25 separate days listening to testimony of 60 witnesses and experts and decided not to bring charges (Department of Justice, 2015). The riots, killings, and criminal behavior blamed on the grand jury's decision is an example of what Mill found as the basis for disintegration of the form of government in the United States.

Another aspect of requiring law enforcement officers to wear body cameras is the unspoken message stating that U.S. officers are no longer trusted; their work and sworn testimony is of no value unless corroborated by video.

Computer evidence: Data stored on computers may be analogous to paper files. The issue created for criminal justice professionals is whether the Fourth Amendment applies equally to paper and computer (digital) files. The Fourth Amendment was written in response to Britain's violation of privacy by intrusive search and seizures. In colonial times, no limits were placed on the *writs of assistance* used as the legal basis for searches of private homes. Therefore, any evidence found supporting criminal behavior was admissible in British courts to convict colonists (Arbetman & Perry, n.d.). By phrasing the Fourth Amendment as written, and in line with 22 of the 27 amendments that prohibit certain actions by the government, it was intended to secure one's privacy against arbitrary intrusion by criminal justice enforcement agents (*Wolf v. Colorado*, 1949).



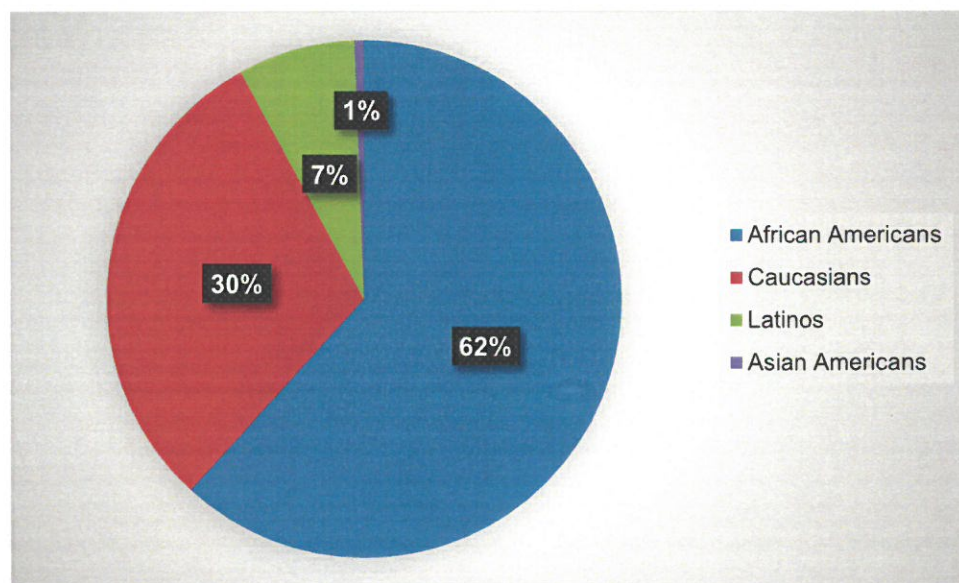
Technology Justice Icon
(ProductionPeria, 2018)

Computers and their capability to store almost unlimited data make it difficult to determine the exact meaning of the Fourth Amendment. The balance between legitimate interests of law enforcement against the reasonable expectations of privacy of individual citizens creates these issues. For example, in the Ganas case, the computer data discovery issue surfaced by the government retaining mirrored drives (exact copies of hard drives) after the search for responsive information, which was authorized in the executed warrant of 2003. The forensic investigators were alerted to possible tax evasion by the defendant while conducting a valid warrant search. Upon being so alerted, in 2006, they sought a second warrant specifying in the petition the findings that alerted the investigators. The mirrored drives were still in possession of the government because the defendant never requested their return after the evidence collection was completed based on the first warrant. The second warrant in 2006 was based on the precedent of a police dog alerting on smell of

contraband and the officers seeking a search and seizure warrant based on the dog's alert (*United States v. Ganius*, 2014).

The rights of citizens, by and through the criminal justice system, versus the rights of criminal defendants seemed to have been balanced in the Ganius case. The government was careful not to disturb the ongoing business of the defendant by allowing him to keep all of his hard drives so he had no need for them. The government had no duty to return copies and possibly retained them as evidence in case the defendant destroyed the data on his hard drives.

DNA: There have been many technological advances in identifying specific humans using their hereditary material known as deoxyribonucleic acid (DNA), which is a molecule that carries the genetic instructions used in the growth, development, functioning, and reproduction of all known living organisms and many viruses (U.S. National Library of Medicine, n.d.). The techniques for the process have advanced, reducing the quality and quantity of material required for testing and the accuracy of testing. The first exoneration of a convicted person was in 1989, and as of 2017, 20 persons awaiting death penalties were acquitted based on DNA testing. Approximately 351 persons have been exonerated of their crimes since 1989, and the racial profile of these can be found below (Innocence Project, n.d.).



DNA exonerations in the United States
(Innocence Project, n.d.)

Solutions to Crime

Ask 30 criminal justice professionals what their solution to crime is, and they will probably provide 30 different solutions. Example solutions may include those listed below.

- Collect DNA from everyone for a national computerized data bank.
- Offer tax credits for legally purchased weapons (helps eliminate secondary [illegal] market).
- Use and expand drug courts and abuse treatments.
- Use more public surveillance cameras.

More seasoned criminal justice professionals probably believe there is no one magic bullet to solve criminal activities, and there probably never will be. One factor that affects stopping crime is the bipolar requirements placed on the criminal justice system by the representative government model and the U.S. Constitution. Advocacy for both the government and the criminal defendant complying with the laws creates a constant battle between the rights of all citizens versus the rights of criminal defendants; this battle must go on. If it ever stops, then one side—either the government or the criminal—wins totally, which leads to either totalitarianism or anarchy. Criminal justice professionals, no matter what rank or position in the system, must constantly be on the alert for imbalance. For example, rioting and government brutality are direct indicators that something is wrong; we must be prepared to fix the problem and restore balance.

Incarceration: Incarceration solves two problems and creates one. By separating convicts from society, the government takes the place of the citizens injured by the criminal behavior of the convict in seeking revenge. Secondly, it separates criminals from the citizens. Does incarceration rehabilitate? Probably not. On the other hand, incarceration does provide training facilities to improve the criminal skills of the younger, less criminally experienced inmates.

To balance the need for incarceration, many argue that punishing convicts helps to reduce crime by placing fear in the minds of would-be criminals. California and other states are reducing prison populations in the hopes of reducing crime. By so doing, convicts are paroled with stringent penalties (incarceration) for violating the terms of parole. The prison population reduction was needed for budgetary reasons, but by providing the citizens of California with assurances that there would be less crime, the policy was instituted. It is too soon to determine whether the plan works. On the other hand, the United States has only 5% of the world's population but has 25% of the world's prisoners (Goldberg, 2015).

Adult Court – Juvenile Court

There are two differences between adult and juvenile courts: All juvenile hearings are private, and juveniles are not accused of criminal behavior, only delinquency. The balance of the procedures and constitutional rights remain the same. The critical question that needs to be answered is, "At what age are criminal defendants considered juveniles?"

Criminality age reduction: By reducing the age of criminality, several important results must be considered; see below.

- The government provides punishment and revenge at a younger age to satisfy the needs of citizens injured by the former juvenile (revenge).
- The adult prison population increases.
- Younger criminal trainees are available for being influenced by more seasoned criminals.
- The probability of rehabilitation is reduced.

Once again, the balance between the rights of citizens to be protected by government from criminals, notwithstanding the age, must be balanced against the rights of minors. The proper age for treating citizens differently in the criminal justice system cannot be scientifically determined. For example, North Carolina sets the age at 15, some states set it at 16, and 44 states set it at 17; there is no accepted scientific rationale for the age differences between states. The coming-of-age ceremonies, which have been listed below, provide a small sample of the differences in societies determining adulthood.

Age	Religion	Practice/Ceremony
Puberty	Jewish	Bar and Bat Mitzvah – worldwide
13	Sateré-Mawé	Bullet Ant Initiation - Brazil
16 - 26	Amish	Rumspringa
15	Catholic	Quinceanera – Central and South America
16	Non-denominational American	Sweet 16
11-12 Puberty	Inuit	North Baffin Island
11	Muslim	Khatam Al Koran – Malaysia
10 -20	Maasai	Tanzania and Kenya – 10-year-long initiation
None	Ethiopian	Hamar Cow Jumping – prior to marriage
7-8	Vanuatu	Land Divers
20	Japan	Seijin-no-Hi
20	Confucian	Ji Li – girls; Guan Li – boys
Puberty	Apache	Girls only; Na'ii'ees

(Pfeffer & Nuñez, 2016)

None are based on scientific studies, but the majority tend to cluster around puberty. As criminal justice practitioners, we must accept the age decreed by our jurisdictions, and on the other hand, be constantly aware of the mental maturity of the child criminal defendant.

References

- Arbetman, L., & Perry, M. (n.d.). Search and seizure: The meaning of the Fourth Amendment today. Retrieved from <http://www.socialstudies.org/sites/default/files/publications/se/6105/610507.html>
- Carroll v. United States, 267 U.S. 132 (1925).
- Department of Justice. (2015, March 4). *Department of Justice report regarding the criminal investigation into the shooting death of Michael Brown by Ferguson, Missouri police officer Darren Wilson*. Retrieved from https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown_1.pdf
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- Kyllo v. United States, 533 U.S. 27 (2001).
- Mill, J. S. (2000). *On representative government* [Ebrary version]. Retrieved from <https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=http://site.ebrary.com/lib/columbiasu/detail.action?docID=2001596&p00=representative+government>
- Pfeffer, L., & Nunez, C. (2016). 13 amazing coming of age traditions from around the world. Retrieved from <https://www.globalcitizen.org/en/content/13-amazing-coming-of-age-traditions-from-around-th/>
- ProductionPerig. (2018). *ID 122582867* [Image]. Retrieved from <https://www.dreamstime.com/view-man-holding-technology-justice-icon-circle-d-rendering-image122582867>
- United States v. Ganas, No. 12-240-cr (U.S. 2nd Cir. 2015).
- U.S. National Library of Medicine. (n.d.). What is DNA? Retrieved from <https://ghr.nlm.nih.gov/primer/basics/dna>
- Wolf v. Colorado, 338 U.S. 25 (1949).

Suggested Reading

In order to access the following resources, click the links below:

The unit lesson touched on juvenile courts and the age of accountability. The video excerpts below further explore the topic of juveniles in the criminal justice system. You are encouraged to view these videos.

Doyle, M. D. (Producer). (1999). *Children in adult facilities versus juvenile facilities* (Segment 4 of 10) [Video file].
<https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=http://fod.infobase.com/PortalPlays.aspx?wID=273866&xtid=10168&loid=30188>

Click [here](#) to access the transcript for the video above.

Doyle, M. D. (Producer). (1999). *Critics of adult jails want rehabilitation and mentoring services for juveniles* (Segment 6 of 10) [Video file]. Retrieved from <https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=http://fod.infobase.com/PortalPlaylists.aspx?wID=273866&xtid=10168&luid=30190>

Click [here](#) to access the transcript for the video above.

Doyle, M. D. (Producer). (1999). *Juvenile offenders today suffer more emotional problems* (Segment 9 of 10) [Video file]. <https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=http://fod.infobase.com/PortalPlaylists.aspx?wID=273866&xtid=10168&luid=30193>

Click [here](#) to access the transcript for the video above.

Doyle, M. D. (Producer). (1999). *Juvenile justice: Balancing punishment with reform* (Segment 10 of 10) [Video file]. <https://libraryresources.columbiasouthern.edu/login?auth=CAS&url=http://fod.infobase.com/PortalPlaylists.aspx?wID=273866&xtid=10168&luid=30194>

Click [here](#) to access the transcript for the video above.

Learning Activities (Nongraded)

Nongraded Learning Activities are provided to aid students in their course of study. You do not have to submit them. If you have questions, contact your instructor for further guidance and information.

Find and read the rules/regulations for the use of body cameras for criminal justice personnel in your jurisdiction, and determine the age limitations for juvenile court and if there are any exceptions based on the alleged crime committed.