

Encountering the Criminal Justice System

By Michael G. Santos
August 11, 2008

This article describes the structure of the system. It provides an overview of every step in the criminal justice process, from the time a crime is reported through to the time a person reports to prison.

During the 21 years that I have served in federal prisons thus far, I have interviewed hundreds of prisoners. My purpose in interviewing these men was to learn from their experiences. I wanted to gather their stories so that I could help others who were confronting the criminal justice system for the first time.

Many first-time offenders—and white-collar offenders especially—make decisions that exacerbate their problems. They do so unwittingly because they don't understand the system. This guide shows what defendants may expect from the system and exposes what others have learned.

First, to authenticate my credentials, readers should know that I have invested thousands of hours interviewing other prisoners and writing their stories. Also, I have read and studied extensively to broaden my understanding of the criminal justice system. My work has led to an undergraduate and graduate degree from accredited universities. Further, reputable publishers have brought several of my books to market; some of those books are used in universities across America.

In preparing this article, I relied upon several legal books. One that was most influential was *Modern Criminal Procedure, 9th Edition*. Professor Yale Kamisar was the primary author of this text book I used in law school, and from the notes I took from that book, I provide readers with an introduction to our criminal justice system. Although the content may appear dry, those who take the time to read and understand the system's purpose may find themselves better

prepared to interact with their defense attorneys and better able to understand options available to them.

Relatively few Americans have more than a basic understanding of our nation's criminal justice system. They know that law enforcement officers arrest people, district attorneys prosecute many of those who are arrested, and some people who are convicted go to jail or prison. It's much more complicated than that, of course.

My research suggests that many of those who first learn that they have become a target of a criminal investigation live in denial. They want to think of themselves as good citizens, as members of society. Such people cannot bring themselves to believe that anyone would consider them criminal. Although misguided, the natural tendency for many offenders is to focus on initial intentions rather than actions; they did not mean to break the law.

Readers ought to understand that the criminal justice process has one function. That function is to protect society through a series of procedures designed to enforce the substantive criminal laws of this country. All branches of law enforcement work together to prosecute crimes, and just as some offenders will make every effort to evade detection and apprehension by law-enforcement officers, representatives of the criminal justice system will make every effort to solve a crime and obtain a conviction.

Steve, for example, was a highly successful advertising executive. I met him while confined at Lompoc Camp. During the early 1990s, Steve launched an on-line advertising company from his living room. That company grew with the surging global expansion of the Internet.

In the late 1990s, a prominent investment bank brought Steve's company public. The company soared in value after its NASDAQ IPO, giving Steve a paper net worth in excess of \$200 million. He stayed on as CEO and Chairman, never imagining that he would encounter complications with the criminal justice system.

All went well for Steve until the U.S. economy began to crumble. Suddenly, the company's quarter-over-quarter numbers had slowed. Wall Street analysts expected the company to maintain its hyperbolic sales growth; profits were not nearly as important during that dot-com frenzy. If sales growth slowed, investors would punish the firm by dumping the stock.

Steve was wealthy. He was not concerned so much for himself as he was concerned for the ways that adverse news would damage value for the shareholders of his company's stock. Many of his employees had a considerable portion of their net worth locked up in restricted company stock. The company's CFO, Susan, suggested to Steve that one way of meeting Wall Street expectations for higher sales would be to barter revenues with two of the company's suppliers.

As CEO, Steve authorized the financial maneuvers. The company boosted its partners' revenues with the purchase of advertising, and the partners reciprocated by purchasing an equal amount of advertising from Steve's company. The manufactured transaction did not generate profits. It was a total wash, though it did enable Steve's company to exceed Wall Street expectations for revenue growth. Steve authorized the practice to continue for a total of three quarters.

Since the bartering scheme to inflate revenues was not disclosed to analysts or shareholders, the practice violated several securities laws. The matter came to the attention of authorities several years later. Authorities contacted Steve for a statement, and he dug himself into deeper problems with his untruthful responses.

When Steve authorized the bartering scheme, he was not trying to enrich himself or break the law. He emphasized that his background had been in sales, not corporate law or accounting. As the CFO suggested the bartering maneuver, Steve said that he did not consider the possibility that he was committing a crime punishable by imprisonment. Because Steve refused to see

himself as a criminal, he tried to cover up his misconduct when discussing the matter with his attorney.

In the end, Steve told me the bad decisions he made during the initial proceedings of his case worsened matters. The dissembling and lies led to prolonged anxieties, significantly higher legal expenses, a much more severe sanction, and ultimately, the loss of his marriage.

Many white-collar offenders made the same mistakes that Steve described. When they believed that originally good intentions would immunize criminal behavior, they exposed themselves to much more significant problems. I've interviewed and written about scores of businessmen who misappropriated funds in futile efforts to keep dreams afloat that should have been sunk. In the process, those businessmen morphed into operators of Ponzi schemes. The longer they denied the fraud, the more they paid later.

Some first-time offenders clung to hopes that a silver-tongued attorney could disentangle them from the clutches of the criminal justice system. That possibility certainly existed, though most of the men I've interviewed in prison expressed wishes that they would have accepted full responsibility sooner.

People I've interviewed frequently complained that law enforcement officers and prosecutors operated outside the scope of the rules in order to obtain convictions. In reality, I think defendants are best advised to *expect* law enforcement officers and prosecutors to use every means available for them to achieve their ends, which, ultimately, is to solve crimes and convict. In a perfect world those representatives of justice would dot every "i" and cross every "t" as they followed the rules in both the letter and the spirit of the law. Years of working with society's felons, however, frequently caused seasoned law enforcement officers to develop cynical perspectives of humanity. Those experiences encouraged many officers to cut corners. Defendants would be wise to understand that convictions rather than justice are the goals of the system.

The Structure

In compliance with our nation's Constitution, the legislators elected to both houses of the U.S. Congress have played a significant role in establishing a body of federal laws that were supposed to govern the behavior of citizens. The Constitution also provides legislators from each individual state with authority to establish their own code of criminal laws for their state, and their own criminal justice processes for enforcing those laws statewide. Although they frequently cooperate, our nation actually operates several different criminal justice systems: one for the federal government, one for each state, and another for the District of Columbia. It's our responsibility as citizens to abide by these laws. When we do not, we subject ourselves to being charged with criminal offenses and experiencing the wrath of the criminal justice system.

Law enforcement officers are supposed to follow strictly prescribed procedures when charging a citizen with wrongdoing. In addition to federal and state rules for criminal procedure, published judicial opinions may also have an impact on criminal procedures. These procedures are complicated, and they can be understood more easily when one thinks of the criminal justice system as a game.

I use this metaphor of a game for clarity, not to trivialize the conflict between accused and accuser. Offenders, or "defendants" act as opponents of law enforcement officers and prosecutors. Both sides want to win. The defendants want to be acquitted, or receive the least restrictive sanction, while law enforcement officers and prosecutors want to convict, and ensure that the defendants receive what they deem as an appropriate sanction. In this "game" of criminal justice, the judge acts as referee and is charged with the responsibility of ensuring that all participants of the game follow procedures to ensure that *due process* is achieved. Although there are many ways this game may begin, it usually starts when someone reports a crime to a member of law enforcement.

Once the Crime is Reported

When a crime is reported or otherwise discovered by law enforcement officers, the process begins. Law enforcement officers may learn about a crime in any number of ways. They may observe a crime being committed; they may learn about it because someone reports it; they may learn about it through investigation or by interrogating others. Once law enforcement officers learn about a crime, it becomes a "reported crime" or a "known offense."

Pre-Arrest Investigation

Sometimes, as when law enforcement officers are present when a crime is being committed—or soon thereafter—the "investigation" begins with an *on-scene arrest*. Other times, as when law enforcement officers learn that a crime has been committed, but were not in a position to make an on-scene arrest, they have the responsibility of solving that crime. They therefore launch a *reactive investigation*, where the officers will attempt to figure out whether a crime was in fact committed, who committed the crime, what evidence there is of guilt, and how to locate the offender to make an arrest. *Proactive investigations*, on the other hand, are aimed to solve crimes that are ongoing or that may take place in the future. The objective of these types of investigations is to place law enforcement officers in a position to charge all whom they suspect of being participants in the crime.

Sting operations are examples of proactive investigations. Law enforcement officers use such strategies to uncover all types of illicit activities. Some prisoners I've interviewed told me that they refused to accept early plea offers because they believed they would prevail during trial. What some did not know was that they had been trapped by a sting operation; either law enforcement officers or confidential informants had direct testimony to implicate the targeted offender. Bad decisions during initial proceedings led to longer sentences.

Another type of pre-arrest investigation includes the prosecutorial investigation, which is generally conducted by a prosecutor. The prosecutor has the power to convene a grand jury (see below for discussion on the grand jury) and, through the power of the grand jury issue a

subpoena. Individuals who receive such a subpoena must appear before the grand jury and answer questions that the prosecutor poses in the criminal investigation. Since the person who received the subpoena does not have counsel present during the questioning, and the entire grand jury proceeding is orchestrated by a prosecutor, it has become routine for grand juries to rubber stamp the recommendations of the prosecutor.

Arrest

An arrest, of course, is when the law enforcement officer takes a person into custody. Sometimes, the arrest occurs at the scene of a crime. In cases that evolved from reactive or proactive investigations, on the other hand, the officers will obtain an arrest warrant—usually from a magistrate judge—before taking the person into custody. In some cases, the officers will allow the suspect to turn himself in to the law enforcement facility for the arrest, thereby sparing the suspect humiliation. In other cases, the law enforcement officers will make a spectacle. In those cases, the officers use an extreme show of force when making the arrest—frequently with weapons drawn—at an inconvenient time, like the break of dawn or during one's work hours.

Booking

If the individual was not permitted to turn himself in for arrest at the appropriate law enforcement facility, and was arrested publicly, the officers will search the suspect's person—and perhaps his vehicle, home, or office—for contraband, weapons, or evidence of a crime. Following the search, officers will transport the suspect to a jail, a courthouse, or some other holding facility for further processing, or "booking." During the booking procedure, the officers will conduct some clerical procedures to memorialize the arrest, then record fingerprints and photos (the well-known mug shots) of the individual. If it's a minor crime, the individual may be released from the holding facility. If the alleged crime is more serious in nature, the suspect may be held for several hours, or even days, until he can appear before a judge who will determine

whether bail is appropriate. If the offender is held in lockup, it is likely that he will be ordered to undergo a strip search.

Post-Arrest investigation

Immediately upon the arrest of the individual, the post-arrest investigation begins. First it's a search of the suspect's body—and possibly his vehicle, home, or office—for evidence that can be used against him. After that, law enforcement officers may conclude that little else needs to be done (in the event that they caught the suspect in the act), or they may continue with many of the same types of techniques used in reactive and proactive investigations, such as interviews and searches.

Deciding to Charge

When law enforcement officers witness a crime, they make a decision on whether to charge the suspected offender. Then, after the individual has been processed through booking, superior officers may review the arrest and decide whether to allow it to proceed. If the law enforcement agency chooses to proceed with prosecution, the prosecutors will then review the charge. The prosecutor may interview the arresting officer and review the evidence to determine whether the case is worthy of filing the criminal charge. Reasons why a prosecutor may decline to file charges include insufficient evidence; witness difficulties; due process problems; alternatives to prosecution; interests of justice; and diversion programs that will enable the suspect to avoid a criminal record.

Even if the prosecutor initially chooses to charge an individual, he may upon further review decide that the charge is not justified or that a lesser charge is more appropriate. In those cases, the prosecutor would have to file a motion before the court detailing the prosecutor's reasons to forego prosecution. The prosecutor would use the same screening factors identified above to determine the appropriateness of such a motion.

Filing the Complaint

In many cases, if the charges pass the prosecutor's screening, the next step will come when the prosecutor files the complaint, most likely with a magistrate judge. The complaint is usually a fairly brief document, concisely detailing the criminal allegations. When a complaint is used as the charging instrument, someone must sign the complaint under oath indicating that he or she believes the factual allegations of the complaint to be true. Usually it's the victim or the investigating officer who signs the complaint. With the filing of the complaint, the suspect officially becomes a defendant in a criminal proceeding.

Review of the Arrest by Magistrate

Some jurisdictions appoint magistrates judges to take some of the workload away from trial judges. Among other things, the magistrate judges handle many of the pre-trial matters. After the prosecutor files the complaint with the court, but before the defendant's first appearance, for example, it frequently will be a magistrate judge who reviews the charges against the defendant. If the defendant was arrested without a warrant and remains in custody, the magistrate must determine whether probable cause exists for the defendant's continued detention. In the extremely rare instance that the judge finds that the prosecutor has not established probable cause, the prosecution either must produce more information or release the arrested person.

First Appearance

With the filing of the complaint, the defendant is brought before the judge "without unnecessary delay." Several hours or several days may pass before the defendant sees a judge, depending on the circumstances. If a defendant is arrested late on a Friday afternoon, he may not see the judge until the following Monday. The first appearance is generally a brief proceeding in which the magistrate determines that the person named on the complaint is the person before the

court. After the magistrate is convinced that the appropriate person is present, the judge will read the charges made against the defendant, identify the defendant's rights, and in felony cases, advise the defendant of the next step in the process, which is the preliminary hearing. The magistrate then sets a date for the preliminary hearing, which the defendant may choose to waive. The magistrate judge then will ask the defendant to enter a plea; if the defendant pleads not guilty, the judge will set a trial date.

Defendants are entitled to have counsel present at every stage of all felony criminal justice proceedings. If the individual cannot afford counsel, the court will provide a court-appointed attorney. A substantial percentage of all felony defendants go through their criminal justice proceedings with court-appointed counsel. These attorneys may work for a public defender service, or they may be in private practice but make themselves available to represent a limited number of indigent defendants. As a practical matter, the indigent defendants who use court-appointed counsel do not have much choice as to which attorney represents them.

If the defendant is in custody at the time of his first appearance, one of the most important functions of the proceeding is for the magistrate judge to determine whether bail is appropriate. Bail establishes the conditions under which the defendant can be released from confinement until his case is decided. If the magistrate judge agrees that bail is warranted in the case, he may require that it be posted in cash, with a surety bond, or by signing over a deed to property; the judge also may accept the defendant's personal guarantee that he will present himself for trial. In general, the magistrate is expected to impose such bail conditions as appear reasonably necessary to assure that the defendant will make court appearances as scheduled throughout the criminal justice proceedings. There is a presumption that a defendant is entitled to bail, but in drug cases or other serious offenses, bail is frequently denied. The magistrate generally looks to the seriousness of the crime, the defendant's criminal history, the defendant's

risk of flight, and the defendant's ties to the community when deliberating over the appropriate bail conditions.

Preliminary Hearing

After the first appearance, the next scheduled step is the preliminary hearing. Defendants who choose to plead guilty frequently waive the preliminary hearing. The criminal justice system sometimes allows the prosecutor to bypass the preliminary hearing, which is yet another screening of the charge, by immediately obtaining a grand jury indictment. A magistrate judge presides over the preliminary hearing, but this phase of the process is adversarial in nature, and the defendant is therefore allowed to be represented by counsel. Generally, during this proceeding, the prosecutor will provide live witnesses and the defendant's counsel will have the opportunity to cross-examine. After listening to the proceeding, the magistrate judge will determine whether to advance the case to the next level—which either is a grand jury review or the filing of a criminal information or complaint.

Grand Jury Review

In the federal system, all felony prosecutions require a grand jury review; the only exception is when the defendant waives this review and agrees to be charged with a criminal complaint or information. States vary in their requirements for charges. The primary function of the grand jury review is to determine whether sufficient evidence exists to proceed with a trial on the criminal charges. A number of randomly chosen citizens sit on the grand jury panel, usually between 12 and 23, and they listen as the prosecution presents its case. The prosecution uses its subpoena power to call witnesses before the grand jury, then questions those witnesses under oath. The witness does not have the right to legal counsel during the grand jury proceeding, and there is no cross-examination. Accordingly, the proceeding is really a one-sided show for the prosecution.

When the prosecution does persuade the grand jury that there is merit to the criminal charge—and my textbooks indicate that this happens in over 95 percent of all cases—the grand jury returns an indictment. Although the grand jury is said to be a screening device, many in the legal profession ridicule it, saying that because the defendants cannot speak on their own behalf, and targets often are unaware that a grand jury has been convened, the prosecution could persuade the grand jury to indict a ham sandwich. When a grand jury does issue an indictment, that document is filed with the general trial court, replacing the original complaint or accusatory instrument in the case. If a grand jury review was not sought, either because it was not required or it was waived, the prosecutor simply would file the criminal complaint or information with the trial court.

The Arraignment on the Criminal Information, Complaint, or Indictment

After the accusatory instrument is filed with the trial court, the defendant is brought before the trial court to be informed of the charges against him. The trial court judge will then, again, ask the defendant whether he pleads guilty, not guilty, or in some cases, *nolo contendere* (neither admits nor denies guilt but agrees to punishment). This procedure is known as arraigning the defendant. Even those defendants who plead guilty prior to going to trial frequently plead not guilty at the arraignment stage. Pleading not guilty gives the defendant more time to examine the strength of the government's case, and allows time for the possible negotiation of more favorable conditions under which the defendant will agree to plead guilty—as most defendants eventually do.

Plea Bargaining

Prosecutors want defendants to plead guilty because what they are looking for, ultimately, is a conviction. Trials require substantial amounts of government time and resources. Furthermore, the outcome is uncertain. Accordingly, prosecutors frequently make concessions in

their attempts to induce defendants to plead guilty, thereby avoiding the time and expense of a trial. This procedure is frequently called plea bargaining. The concessions may come in the form of a reduction of the charges against the defendant, dismissal of certain charges, or sentencing considerations. The prosecutor has the authority to charge a defendant with crimes that carry certain sentences, and they have the ability to recommend certain sentences within the statute or guideline range. In the end, however, it is the judge who imposes a sentence, and although he may listen to the prosecutor's sentencing recommendation, the judge is not bound to honor it.

The vast majority of defendants enter guilty pleas. Frequently, however, those who do plead guilty spend much of their time in prison second-guessing their decision. As a long-term prisoner, my observations and interactions with other prisoners since 1987 convince me—beyond all doubt—that defendants who know they are guilty are vastly better off to accept complete responsibility, express remorse, and plead guilty at the earliest possible stage. Like all decisions that influence one's freedom, deciding whether to plead guilty is a legal decision that must be made with the guidance of counsel.

Pre-Trial Motions

After the arraignment, attorneys for the defendant may choose to file multiple pretrial motions before the trial court in an effort to help them develop a better understanding of the government's evidence. These motions may attack the charging instrument—either the criminal information or the grand jury process; they may ask for an order directing the government to disclose evidence; the motions may ask the court to suppress evidence that the defendant believes was obtained in violation of the defendant's Constitutional rights; or the motions may seek to weaken the prosecutor's case in any number of other ways through legal hard-ball tactics. Even defendants who expect to plead guilty at some point may file a number of pretrial motions in their efforts to obtain more information.

The Trial

If the case has not been dismissed, and the defendant has not pled guilty, the next step in the criminal justice procedure is the trial. Defendants have a right to a speedy trial, but the defendant may waive that right, and the prosecutor may look for excusable opportunities to extend the pretrial time period. Both sides of the adversarial process look for every opportunity to prepare their case. In a typical jurisdiction, it is reasonable to expect five to ten months to pass from the time of arrest until the time the trial begins. Some trials may require only a few hours, others several weeks. Complicated cases may stretch into several months—or even years—before both sides present their closing arguments.

Although some defendants may choose a bench trial, with only a judge to determine one's guilt or innocence, all felony defendants have the right to a jury trial. In a jury trial, a group of randomly selected citizens is charged with the responsibility of listening to the evidence that the trial judge allows to be presented. The jurors are supposed to presume that the defendant is not guilty of the charges until the trial judge instructs them to begin deliberating on whether the prosecution has proven its case, beyond a reasonable doubt—but not beyond all doubt. “A little doubt can exist,” as the trial judge in my case reminded the jurors deciding my fate.

The trial begins with the *voir dire* process, which is the questioning of jurors. The judge, and in some jurisdictions the attorneys, play a role in questioning the prospective jurors. Both sides are trying to screen out prospective jurors who may be biased against their side. After all, the theory may hold that both sides are seeking justice. In reality, the prosecution is seeking a conviction and the defendant is seeking an acquittal; each side is looking for the best group of jurors to deliver the desired verdict. Each side will have limited opportunities "to strike" or excuse jurors whom they believe would be antagonistic to their case.

Once the jury has been chosen and sworn, the prosecution and the defense may begin with an opening argument. After opening arguments, the prosecution will begin presenting its

case, usually with live witnesses whom the defense may then cross-examine. After the prosecution rests, the defense will have an opportunity to present its case, and the prosecutor can cross-examine its witnesses. Then, after both sides have rested, the prosecutor will make a closing argument. The defendant's attorney then will have an opportunity to make a closing argument. The prosecutor gets the last word, though, in response to the defense attorney's closing argument. Finally, the judge will read a set of instructions to the jury, and only then, supposedly, is the jury allowed to deliberate over the guilt or innocence of the defendant. In order to obtain a conviction, each member of the jury must find the defendant guilty. If the jurors reach a unanimous verdict, the foreman provides it to the judge, and then, in most cases, reads the verdict in open court. That concludes the trial.

It may be interesting for defendants to know that a leading case book on criminal procedure, *Modern Criminal Procedure, 9th Edition*, by Yale Kamisar, et al, published by West Group, (St. Paul, Minn: 1999), page 30, indicates that:

“As for those who were arrested on felony charges, only one of a hundred is likely to have had the case against him carried through to a trial that resulted in an acquittal.”

Pre-Sentence Investigation Report (PSI)

After a finding of guilt has been made, either because the defendant has pled guilty, or was convicted at trial, in most felony cases the court will order the probation department to conduct a pre-sentence investigation. The pre-sentence investigation report provides the sentencing judge and the prison system with a background of the offender. Essentially, the report will begin with a narration of the prosecution's version of the offense. The probation officer will interview the defendant and give him an opportunity to make a statement, too. The probation officer also will conduct an investigation into the defendant's personal background. It is not uncommon for the probation officer conducting the report to speak with the defendant's family members, friends, employer, and anyone else who can provide material information. The

objective is to prepare a document that provides a snapshot of the offense and the defendant's background. The judge then uses this information as a source of reference when deliberating over the appropriate sanction to impose.

Those going to prison, however, should not underestimate the importance of this document. For the duration of one's term, the PSI will play a role in virtually all decisions pertaining to one's confinement. Because of the PSI's importance, I urge readers to study the article I wrote specifically about the Presentence Investigation Report.

Sentencing

After the finding of guilt, and the completion of the PSI, the next step in the criminal justice process is sentencing. In most cases, sentencing is a function of the court. Basically, the sentencing judge has three alternatives. For the most serious crimes, the sentencing judge may impose a term of imprisonment. For crimes that the judge deems less severe, a term of probation, allowing the offender to remain in the community under specific conditions. Or, the judge may impose some type of financial sanction, like a fine or restitution. Generally, the legislature has determined the range of sanctions from which the judge can choose.

For federal crimes, judges use the sentencing guidelines when determining what sentence to impose. The guidelines, designed by Congress to create uniformity in sentencing, provide a matrix that takes many factors into consideration. Among other things, they consider the defendant's role in the offense, the defendant's acceptance of responsibility, aggravating factors, mitigating factors, and the defendant's criminal history.

Offenders sentenced to prison for crimes committed after November 1, 1987 are not eligible for parole and should not anticipate receiving more than 54 days of possible good time per year. This means that the prisoner will serve about 87.12 percent of the sentence imposed, or more if good time is lost. Good time is not necessarily earned. Rather it is given to each prisoner automatically, whether he watches television or earns advanced degrees during confinement. It

may be lost, however, as a sanction for those convicted of disciplinary infractions during their confinement.

Becoming a Prisoner

Once an individual is sentenced to prison, the next step is getting there. Offenders who are sentenced to relatively short terms—fewer than ten years—may have the privilege of self-surrendering at the facility to which they have been *designated* or assigned to serve their sentence. Others will proceed through the humiliating prisoner transfer system.

Appeals and Post-Conviction Remedies

Most offenders who have been found guilty by trial appeal their convictions. The *direct appeal* follows a conviction in a trial court and is made in an intermediate court. All defendants who proceeded through a trial have the right to a direct appeal. Specific rules are established for this procedure to ensure that one appeals only the fairness of the proceeding; an appeal is not an opportunity to re-litigate one's case. When reviewing the record of the trial court, appellate court judges will give great weight to the discretion of the trial court judge and may assume that his interpretation of the facts is correct; the issue for the appeals court is whether the judge allowed proper procedures and properly applied the law.

Individuals who did not receive the result they wanted at the trial court or at the appellate court may attempt to present their case to a higher court. It is less likely that the higher court will agree to hear the appeal—at which point the case becomes final. Indeed, every step in the judicial proceeding brings the case one step closer to finality. The U.S. Supreme Court, being the highest court in the land, is the court of last resort, but few defendants ever see their cases advance that far in the appellate procedure. Indeed, relatively few offenders find relief through appellate procedures. One text in the field contends that in the federal system, fewer than 10 percent of all defendants succeed on appeal.

Within one year after the appellate process is exhausted, those in prison may seek relief through habeas corpus proceedings. The habeas is also known as the post-conviction process, which is a civil proceeding. The hurdles one must cross in order to find relief through these civil proceedings are much higher than at any other time in the criminal justice process, as it is difficult to undo the long record that already has been established. Accordingly, it's extremely rare for a defendant to find relief through the post-conviction process of habeas corpus.

Final Word

As a long-term prisoner, and one who has worked closely with thousands of others who have lived through years of incarceration, I urge anyone who anticipates a potential problem with the criminal justice system to learn as much about the system as possible. The more knowledge one has about the system, the better-prepared one will be to work with his attorney to achieve the best possible outcome. Individuals should rely on their attorneys for legal advice, but they also should make efforts to gather and learn from the experiences of others. I regret having put my head in the sand and living as though my problems with the criminal justice system would somehow disappear.

If an individual is actually charged with a crime, I recommend that individual make a point of reading the statute to find a complete definition of the elements of the offense. The defendant ought to read through potential penalties as well. One does not have to speak with a law enforcement officer, but if one chooses to do so, one had better not lie. Lying to law enforcement exposes the person to more problems—like obstruction of justice charges, or charges of making a false statement to a federal officer. Once one is ensnared in the criminal justice web, it's time to think about damage control. Like a fly caught in a spider's web, life as one previously knew it definitely changes.

Keep in mind, too, that the best way to avoid problems with the criminal justice system is to avoid committing a crime in the first place. On the other hand, if an individual finds himself a

potential target of law enforcement officers, he ought to know the stakes associated with every decision. If an individual intends to plead guilty, the sentencing guidelines make clear that the sooner and more completely one expresses remorse and accepts responsibility, the more an individual increases his chances for leniency at sentencing. Although holding the prosecutor to task on every issue may bring some advantages, that option does not come without potential costs—both in terms of financial costs to launch an aggressive defense, and costs in terms of one's exposure to more difficult sanctions.

I urge readers to learn as much about the prison system as possible before coming in. That way, they may make more enlightened decisions and assist their attorneys in their struggle to make the best of a difficult situation.