

CRIME AND CRIMINOLOGY

Fifth Edition



SUE TITUS REID

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UNIVERSITY OF TULSA

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DEDICATION

To Jill Pickett, my sister and friend

who made it possible for me to meet my manuscript deadline during a difficult year, my appreciation and gratitude for a job well done, and my love and affection for your support through all the years.

Preface

As a discipline, criminology must deal not only with the causes of crime—the traditional emphasis of sociologists—but also with the criminal justice system and corrections. Therefore, this text reflects my training in both sociology and law.

During my years of teaching criminology to undergraduates, I was impressed with their eagerness to learn how law relates to the traditional topics covered in the course, even to the point of their enjoying judicial opinions. Thus, excerpts from appellate opinions have been used to illustrate some concepts and to demonstrate the role of the courts in the reformation of the criminal justice system. To minimize the need for supplementary materials, the text also provides the results of sociological research—both historical and contemporary—on the criminal justice system. Summaries and critiques of classic works in criminology, analyses of recent sociological research, and attention to major sociological theorists who have contributed significantly to the study of crime are also included.

The response to the four previous editions of this text indicates that students and faculty find the integration of law and social science to be a viable approach to the study of criminal behavior. No less important to users of earlier editions has been the assessment of society's response to criminal behavior. Therefore the basic format has been retained, but with some significant changes.

The organization of the text remains essentially the same, although the coverage is changed. Part I, "Introduction to the Study of Crime and Criminology," introduces the study of criminology, Chapter 1, "Crime, Criminal Law, and Criminology," explaining and analyzing the concept of crime. This chapter includes expanded coverage of criminology and the nature of criminal law.

Chapter 2, "The Measurement of Crime and Its Impact," focuses on the accumulation of crime data through both official and unofficial methods.

Part II, "Explanations of Criminal Behavior," follows the same organization as in the previous edition, including four chapters on causation. Chapter 3, "Early Explanations of Criminal Behavior and Their Modern Counterparts," opens with a brief introduction to the methods of studying crime and then explores the historical explanations of criminal behavior that have strongly influenced modern developments. The influence of the classical and positive schools of thought are explained, contrasted, and related to current philosophies of punishment and sentencing.

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Chapter 4, "Biological and Psychological Theories," covers topics that appeared in earlier editions as well as new topics of interest, such as the effect of alcohol and drug abuse on criminal behavior and the use of the battered woman's syndrome as a defense in criminal cases.

Part II concludes with two chapters on sociological explanations of criminal behavior. Chapter 5, "Sociological Theories of Criminal Behavior I: Social-Structural Approach," focuses on the relationship between social structure and criminal behavior. Chapter 6, "Sociological Theories of Criminal Behavior II: Social-Process Theories," focuses on the processes by which criminal behavior may be acquired. These two chapters follow the same format as the previous edition, but the material has been updated.

Significant changes were made in Part III, "Typologies of Crime." In this edition the separate chapter on domestic violence has been combined with Chapter 7, "Crimes of Violence." Chapter 8, "Property Crimes," covers added sections on arson and motor vehicle theft. More attention is also given to less serious (as defined by the FBI) property crimes, such as embezzlement and forgery; fencing is also discussed. Coverage of professional and career criminals has been expanded.

Chapter 9, "Crimes of the Business World," is new to this edition and covers computer and white-collar crimes. Previously these crimes were discussed with property crimes. Additions include a new section, "Corporate Behavior and Criminal Sanctions," which focuses on the Ford Pinto and the Six Flags cases, the only two cases in U.S. history in which criminal prosecutions for a crime higher than negligent homicide have been brought against corporations. Coverage of the crime of environmental pollution is added to this chapter, and coverage of the control of white-collar crime is expanded.

Chapter 10, "Organized Crime and Terrorism," is a new chapter featuring expanded discussion of organized crime and an added section on terrorism. The discussion of terrorism contains recent examples and analyses of this increasingly frequent type of criminal behavior.

Part IV, "The Criminal Justice System," is reduced from five chapters to three in this edition because many departments offer separate courses in criminal justice and corrections. The section retains coverage of the important elements of the criminal justice system but offers briefer discussions. Chapter 11, "The American System of Criminal Justice," introduces the reader to the procedures, stages, and steps of the criminal justice system. This chapter sets the stage for the subsequent chapters with its discussion of the constitutional rights of defendants, which is updated with the most recent cases.

Chapter 12, "The Police," retains the same outline with the addition of historical background and an emphasis on the importance of discretion in policing. Chapter 13, "The Court System," contains an overview of the criminal justice processes that occur in the courts, from pretrial to posttrial. With

PREFACE

the elimination of separate chapters on pretrial release and disposition of the convicted offender, this edition covers those areas briefly in Chapter 13. The discussion of jails, previously in the chapter on pretrial release or detention, has been moved to Chapter 14 in Part V.

Part V, "Social Reaction to Crime: Corrections," now contains two rather than three chapters. The two chapters on prisons have been combined, along with the discussion of jails, to form Chapter 14, "The Confinement of Offenders." The chapter contains a brief historical account of the emergence of prisons and jails for punishment; discusses the American contribution to this movement; and distinguishes jails, prisons, and community corrections. Jail and prison overcrowding is one focus of this chapter; the discussion includes an analysis of the attempted solutions to this serious problem. The inmate's social world within prison is discussed, as are prison violence and control within prisons. The chapter concludes with a brief overview of prisoners' legal rights. Chapter 15, "Corrections in the Community," covers probation, parole, and community corrections.

As in the previous edition, each chapter begins with a brief outline and an abstract. A list of key terms has been added in this edition. At a glance readers will be alerted to the chapter's coverage and will have useful tools for review. Key terms are also boldface within the text and defined in a comprehensive glossary at the end of the book.

Highlights and exhibits, two other features of the previous edition, are also retained. Highlights, generally taken from popular sources, illustrate how the media depicts crime. Exhibits focus on scholarly materials. These features, along with the continued use of tables, figures, and photographs, provide the text with textual and visual variety. The text also includes a general index, a case index, and a guide indicating how to read court cases. An Instructor's Manual that includes test questions is available upon adoption of the text.

Acknowledgments

While I was working on this edition, several people suggested that it must be much easier to write a fifth edition than a first edition, for surely the former would require little revision. On many long days I thought about that assumption, and I concluded that although the process of deciding which topics to exclude, which to add, and which need extensive or only minor revisions is always difficult, the statement is true to the extent that by the fifth edition the writing process has become easier. This is the case mainly because of the experienced help I have had on this edition.

My sister, Jill Pickett, who has always been a dear friend and supportive family member, has now become a valuable assistant. It was her efficiency and hard work that made it possible for us to get this manuscript to the publisher on time. During this revision, when my work load had to be reduced, she assumed additional responsibilities by editing the entire manuscript, putting all the footnotes in order, proofreading, and compiling the index, in addition to typing most of the manuscript. To her the publishers and I owe a big thanks, and to her this book is dedicated.

Our work was facilitated by the efficient research assistance of Laurie Hayes, who also secured all of the permissions and assisted me with many miscellaneous office and household chores during the year. Laurie was always eager, enthusiastic, and competent. During the latter stages of her work on the book, Laurie was assisted by Dave Hudgins, who also approached the job with skill and enthusiasm. Laurie has graduated; her successors, Chrisie Brightmire and Stan Hubble, did the final checks on footnotes and updating during the summer of 1987 as this manuscript went into production. Lorna Keltner, David Hall, and Stephen Crane provided numerous photographs for my selection.

The faculty, administration, and staff at the University of Tulsa have assisted me in many stages of this manuscript, as they have done with the other books I have published during my decade at TU. President J. Paschal Twyman continues to provide an atmosphere in which scholarship flourishes. Frank K. Walwer, Dean of the College of Law, has provided financial assistance for research and travel related to this effort, in addition to his verbal support of scholarship. The law school and university librarians have supplied significant assistance in helping me locate resources for the text. Ann Hail assisted with the typing. As always, my students provided encouragement, challenging me with their ideas during classroom discussions and

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enlightening me with their practical experiences in the "real world" of law. The TU Golden Hurricane, 1987 Missouri Valley Champions in basketball, provided me with exciting diversions both at home and on the road.

Many of my colleagues in criminology and criminal justice have continued their support by assisting with the reviewing process. I am grateful to the following professors for their ideas and their constructive criticisms: William M. Cross, Illinois College; Jim DeFronzo, University of Connecticut; Thomas J. Durant, Jr., Louisiana State University; David A. Guldin, The College of Wooster; Julia Hall, Drexel University; David L. Hough, Vincennes University; Kathryn Mary Johnson, Indiana University Northwest; Will C. Kennedy, San Diego State University; Robert M. Regoli, University of Colorado, Boulder; and Raymond E. Sakumoto, University of Hawaii at Manoa.

H. H. A. Cooper assisted me with the section on terrorism, and Jerry Dowling provided encouragement and feedback on many topics during the course of this revision.

The staff at Holt, Rinehart and Winston provided the needed editorial and production assistance, and I very much appreciate their efforts. My editor, Jane Knetzger, was efficient, thorough, and reasonable, while providing the sense of humor to get us through the tough times. She was assisted by project editors Herman Makler and Paula Cousin, production manager Pat Sarcuni, design director Robert Kopelman, and copy editor Barbara Conner. The assistance of these and the many others at Holt who make such revisions possible in a reasonable period of time have provided me with the excitement and enthusiasm for planning the sixth edition of this text. To that end I will soon begin working.

Sue Titus Reid

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PART I

Introduction to the Study of Crime and Criminology

CHAPTER • 1

CRIME, CRIMINAL LAW, AND CRIMINOLOGY

OUTLINE

The Concept of Crime and Criminal Law

- Historical Meaning of Crime
- Criminal Law Distinguished from
Civil Law

Definition of Crime

- Legal Definition of Crime
- Analysis of the Legal Approach

The Concept of Law

- The Source and Nature of Law
- Law as Social Control

The Purpose of Criminal Law

- The Control of Crime
- The Control of Morality
- Analysis of the Purpose of
Criminal Law

The Study of Crime

Organization of the Text

Conclusion

This first chapter provides an introduction to the study of crime and the criminal. The legal and nonlegal definitions of crime are defined and analyzed. The concept of criminal law is examined, followed by a discussion of the purpose of criminal law as an agency of social control. Laws regulating substance abuse and private consensual sexual behavior are used to illustrate the growing controversy over whether the criminal law should be used to control morality. This controversy has existed for centuries but has been brought back to center stage in the United States as the result of a 1986 Supreme Court decision.

KEY TERMS

administrative law
case law
civil law
common law
conflict approach
consensus approach
crime
criminal law
entrapment

felony
felony-murder
folkways
fornication
intent
mala in se
mala prohibita
mens rea
misdemeanor

Model Penal Code
mores
norms
socialization
social system
sodomy
statutory law
torts
victimless crimes

INTRODUCTION TO THE STUDY OF CRIME

Attempts to explain and control criminal behavior involve many disciplines. Although other disciplines will be mentioned, this text will focus on sociology and criminology and their interaction with criminal law, the legal mechanism by which society reacts to crime and through which society attempts to prevent criminal behavior. This chapter establishes the foundation for all subsequent discussions in the text. It begins with the critical concept of crime.

THE CONCEPT OF CRIME AND CRIMINAL LAW

The word **crime** is difficult to define because of the lack of general agreement on its meaning, but an attempt at a definition must precede its study. Legal and nonlegal definitions of crime will be examined after a brief historical overview of the concept of crime.

HISTORICAL MEANING OF CRIME

Originally crimes were not defined. They involved no official action because they were private matters. Individuals who were wronged would seek retribution against the wrongdoer or the wrongdoer's family. The system broke down when the family structure changed, societies became more complex, and people became more mobile. Private vengeance became difficult if not impossible to enforce.

Later the concept of crime developed but was confined to acts committed against the king (for example, treason), and private revenge remained the only punishment for acts against private citizens. Eventually the king, representing the state, realized that the peace of the community was at stake. He decreed that the act of wronging a person should be reported to him and he would take action. Anyone who injured one of the king's subjects was considered to have injured the king, and the phrase "keeping the peace of the king" developed.

Gradually the payment of compensation replaced family feuding and other forms of private revenge. If, for example, a neighbor stole your cow, you were permitted to take one of his cows. If, after the money system developed, he had no cow, you were entitled to the monetary value of the stolen cow. Because the king wanted some of the money too, the fine system developed; the fine went to the king (now to the state) and the payment for the stolen cow to the owner of the cow. Out of this approach emerged a dual system: **criminal law** and **civil law**.