

CRIMINAL JUSTICE

fourth edition



Sue Titus Reid

CRIMINAL JUSTICE

Fourth Edition

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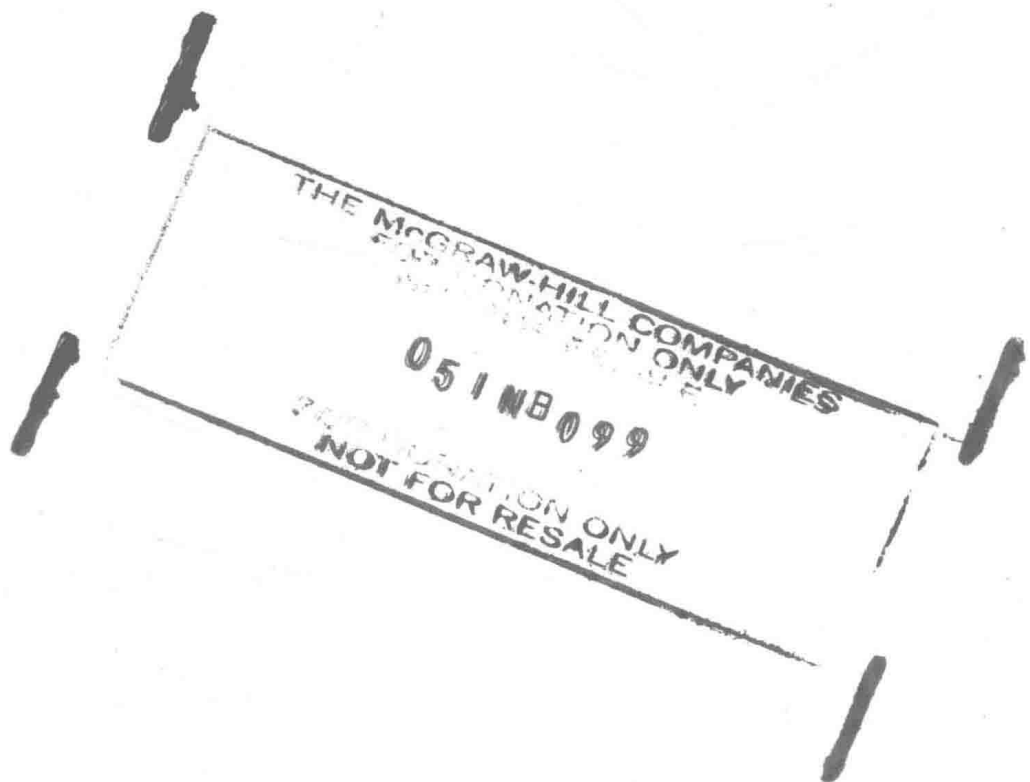
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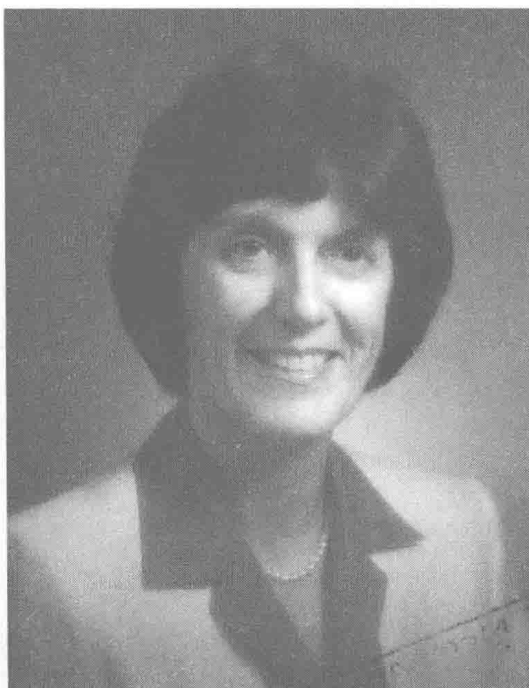
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Fourth Edition





Sue Titus Reid, professor of public administration and policy at Florida State University, Tallahassee, has taught law students, graduate students, and undergraduate students in many states. She has served on the board of the Midwest Sociological Society and the executive staff of the American Sociological Association. She has served as chairperson, associate dean, and dean. In 1985 she held the prestigious George Beto Chair in criminal justice at the Criminal Justice Center, Sam Houston State University, Huntsville, Texas.

Dr. Reid was influenced in her choice of career by her family background and early experiences in a small East Texas community. She graduated with honors from Texas Woman's University in 1960 and received graduate degrees in sociology (M.A. in 1962 and Ph.D. in 1965) from the University of Missouri-Columbia. In 1972 she graduated

with distinction from the University of Iowa College of Law. She was admitted to the Iowa Bar that year and later to the District of Columbia Court of Appeals. She has been admitted to practice before the U.S. Supreme Court as well.

Dr. Reid is unique among authors in the criminal justice field because of her distinguished qualifications in both law and the social sciences. Her first major publication, *Crime and Criminology*, 1976, now in its seventh edition with the eighth in progress, has been widely adopted throughout the United States and in foreign countries. Dr. Reid's other titles include *The Correctional System: An Introduction*, and *Criminal Law*, Third Edition. She has contributed a chapter in the *Encyclopedia of Crime and Justice*, as well as to other books, in addition to publishing scholarly articles in both law and sociology. Dr. Reid's contributions to her profession have been widely recognized nationally and abroad. In 1982 the American Society of Criminology elected her a fellow "for outstanding contributions to the field of Criminology." Other national honors include the following: Who's Who among Women, Who's Who in Criminal Law, 2,000 Notable Women (Hall of Fame for Outstanding Contributions to Criminal Law, 1990); Personalities of America; and Most Admired Woman of the Decade, 1992. Her international honors include International Woman of the Year, 1991-1992; International Who's Who of Intellectuals; and International Order of Merit, 1993.

Dr. Reid has traveled extensively to widen her knowledge of criminal justice systems in the United States and in other countries. In 1982 she was a member of the People-to-People Crime Prevention delegation to the People's Republic of China. Her several trips to Europe included a three-month study and lecture tour of ten countries in 1985.

PREFACE

For many countries one of the most serious domestic problems is crime; the United States is no exception. With one of the highest crime rates and rates of incarceration in the world, the United States faces immense problems associated with national and international criminal activity. There is widespread concern about this; it extends beyond official data on the nature and frequency of occurrence to include citizens' unofficial reactions to crimes. Criminal justice systems appear inadequate to prevent crime and are questionable channels for coping with crimes that do occur.

Some react with bitter criticism of the systems but with no meaningful suggestions for improvement. Others take the law into their own hands and fight back, wounding, and in some cases, killing those who attempt to victimize them. Still others take a close look at the systems with the hope of retaining the best parts and changing those that need improvement.

The latter view is taken in this text, which focuses on U.S. criminal justice systems but looks at the issues in general and extends the scope with some examples from other countries. The text considers the interrelationships of the various parts of the systems as well, for it is important to understand that a change in one area of a system may—and usually does—have a significant impact on the whole.

Some notable changes have been made in this edition. The most important one is the most obvious: the book is in paperback, with a significantly reduced price and fewer chapters, and it includes, for the first time, a chapter-by-chapter comprehensive student study guide. Why these changes? While teaching a criminal justice course and using the third edition of this text, I became more aware of several problems with this text and its competitors. The size of these books has increased to the point that most contain too many chapters to cover in the usual fourteen-week semester.

With the increase in size and production costs resulting from a more elaborate book design, the student price has escalated, and the student bears the additional cost of a study guide if he or she chooses to utilize one.

My publisher and I decided that it is possible to write and produce a book that contains extensive, up-to-date coverage of criminal justice and includes photographs, figures and tables, and a detailed study guide, while keeping the price within a reasonable range for the average student budget. This streamlined offering is the result, and we believe it provides an excellent alternative to the more expensive, four-color texts. Ancillary teaching materials include an instructor's manual and a test bank that is also available as a computer-generated program.

This book retains the hallmarks of all my books. It includes the most recent and accurate information on all topics. All legal citations, including cases and statutes, have been checked to determine whether they have been altered or overruled by legislation or subsequent court decisions. Where possible, issues are illustrated with recent cases, although I have used some older cases because they represent classic statements on the law that are still in effect, or because they represent the latest Supreme Court decision on that issue.

The recentness of some cases presents problems because these cases will be heard by appellate courts during and after the production of this book. Furthermore, the personnel composition of the U.S. Supreme Court has changed significantly in recent years, and these changes are likely to be reflected in forthcoming decisions by the Court.

Along with recent scholarly research, this fourth edition retains the practice of using recent current events from popular sources to illustrate what is happening in criminal justice. Some examples are the highly publicized cases of Erik and Lyle Menendez, who admitted killing their wealthy parents; Susan Smith, who was convicted of killing her two young sons; O. J. Simpson, tried and acquitted for the murder of his ex-wife, Nicole Brown Simpson, and her friend Ronald Goldman; and the Oklahoma bombing case. In some of these instances trials will not be completed before the text is published.

Chapter Format

Each chapter begins with an outline of the chapter's content and a list of learning objectives, which are designed to highlight the important points that should be learned during students' progression through the chapter. Key terms are set in boldface within the chapter and defined in the margin as well as in the glossary at the end of the text. The material is illustrated with tables, figures, maps, and spotlights. Each chapter ends with a detailed summary designed to assist students to analyze the subjects covered in that chapter.

A chapter-by-chapter study guide with a detailed outline, study exercises, key concepts, and study questions is bound at the end of the book. It provides a valuable study tool for students to check their comprehension.

Organization of the Text and Important Content Changes

The text is divided into five parts. Part I, "Introduction to Criminal Justice Systems," contains two rather than the previous five chapters. The first chapter, "Criminal Justice: An Overview," combines the main features of the first two chapters of the previous edition. It introduces the criminal cases of O. J. Simpson, Susan Smith, and the Menendez brothers, cases that are used throughout the text to illustrate various points.

Chapter 2 is a merging of chapters 3 and 5 of the previous editions, covering crime and victimization data. The previous edition's chapter on "Explanations of Criminal Behavior" has been eliminated. It is impossible to discuss even the major theories of crime causation in one chapter, and an attempt to do so may be confusing and overwhelming to students. Furthermore, many students take a course in criminology in which these theories are discussed at length. Numerous adopters indicated that they did not cover crime theories in a general criminal justice course.

Part II, "Entry into Criminal Justice Systems: Policing," focuses on one of the basic functions of criminal justice systems. I have combined the three chapters of the previous edition into two, and condensed the section on the history of policing. Chapter 3 explores the structure and function of policing, while chapter 4 is devoted to a close look at the major problems and issues of policing. These discussions feature more information on racial and gender issues (including affirmative action hiring), stress in policing, and domestic violence and policing. The analysis of deadly force includes a new section on vehicle pursuit.

Part III, "Processing a Criminal Case: Criminal Court Systems," explores the procedures and issues that arise from arrest through sentencing and appeals. Chapter 5 sets the stage for this with an overview of court systems. The

controversial nature of current criminal justice cases is illustrated in this chapter by the discussion of a husband who killed his wife after finding her in bed with another man and was sentenced to only eighteen months in prison. Information on frivolous lawsuits indicates one of the serious problems that is causing court congestion.

Chapter 6 examines the roles of prosecutors and defense attorneys historically and currently. The chapter features a Spotlight box about the case of Paul Hill, the first person convicted under the federal Freedom of Access to Clinic Entrances Act of 1994. In a state trial Hill was sentenced to death for murdering a doctor at the Pensacola abortion clinic. Another Spotlight box deals with the high cost of private defense attorneys, as illustrated by O. J. Simpson's defense team.

Chapters 7 and 8 describe basic procedures that occur throughout the pretrial and trial phases of criminal cases, using illustrations of current cases such as those of the Menendez brothers and O. J. Simpson as well as the rape trial of William Kennedy Smith. Special problems of jury selection involving racial issues as well as media attention to sensationalized crimes are discussed. An analysis of DNA testing and the problems of admitting those tests at trial is a new feature of this edition, as is the South Carolina case of Susan Smith, who was tried and sentenced to life in prison for the deaths of her two young children. Trial and appeal issues relating to police brutality in the Rodney King case are noted as well.

Special attention is given to sentencing, the subject of chapter 9. Important features are an analysis of court interpretations of the federal sentencing guidelines, along with the new federal crime bill enacted in the summer of 1994. The political attention to sentencing in the 1994 elections, in which many candidates called for "three strikes and you're out" and similar legislation, is discussed, along with Republican efforts to revise the 1994 statute. Alleged disparity concerning gender and race in sentencing are featured in this chapter.

Part IV, "Confinement and Corrections," focuses on corrections, with four chapters examining the methods of confining offenders in institutions or of placing them in the community under supervision. Chapter 10, "The History and Structure of Confinement," looks at the history of prisons and jails, a distinction between those two types of confinement facilities, and a discussion of the federal and state prison systems. Attention is given to the problems of local jails. The current focus on boot camps and prison overcrowding are analyzed. I have updated and expanded the topic of privatization of prisons and jails.

Chapter 11, "Life in Prison," focuses on inmates and correctional officers and the interaction between these two groups who spend so much time in confinement facilities. Particular attention is given to the methods of social control that involve inmates and officers, and how inmates cope with the pains of imprisonment, along with a distinction between the adjustments of women and men. Alleged abuse of inmates by correctional officers is highlighted by a discussion of the recent allegations of sexual abuse in Georgia prisons. A new topic, "Special Needs of Female Inmates," expands the previous treatment of this matter and includes general health needs of incarcerated women. Attention is given to other special needs, such as those of inmates with mental or physical disabilities.

Many legal issues have been raised concerning the incarceration of offenders. Chapter 12, "Conditions of Incarceration: The Courts React," explores some of the major issues and explains how lawsuits may be filed by inmates or their attorneys. I have extended the coverage by using the most recent developments throughout. For example, the previous edition contained a short segment on whether inmates are entitled to a smoke-free environment. This edition updates that section. New issues, such as whether inmates have the right to have their sperm frozen, are discussed.

Part IV closes with chapter 13, "Probation, Parole, and Community Corrections," which examines the preparation of inmates for release, problems faced upon release, and supervision of the offender in the community. I have mentioned recent legal cases involving such probationary terms as restraining women probationers from having more children. The final section of the chapter features a discussion of California's Pelican Bay Prison, the subject of a 1995 CBS *60 Minutes* presentation as well as the focus of a massive federal lawsuit, both illustrating some of the questionable conditions in a "modern" prison.

The final part of the text, Part V, "Juvenile Justice: A Special Case," consists of a chapter on juvenile justice system. This chapter explains and contrasts those systems with adult criminal court systems and considers the changes in juvenile justice systems that have resulted from decisions of the U.S. Supreme Court as well as lower courts. The legal issues concerning race and gender are included in this edition, along with a new section on juvenile curfews.

This last chapter examines the handling of serious juvenile offenders, including the processing of their cases in criminal courts and the impact of gangs on juvenile violence. I have dealt with the topic of the juvenile in corrections and significantly updated the previous discussion of deinstitutionalization. The section on juveniles in the community contains more information on juvenile probation. The imposition of capital punishment on juveniles is discussed, and the chapter closes with a brief contrast of juvenile and criminal court systems, using as an illustration a recent juvenile case that resulted in the rescinding of an early admission by Harvard University.

Two Appendices assist the reader with legal issues. Appendix A reprints selected amendments to the U.S. Constitution. Those amendments are cited throughout the text. Appendix B explains the abbreviations and references that are used in legal case citations. Individual indexes assist the reader who desires quick access to names, subjects, and legal cases cited in the text.

Acknowledgments

The writing of a text is a labor of love for me, and as I near the completion of my sixteenth book, I am aware that a few people have shared my commitment and my enthusiasm through most or all of those efforts. My sister, Jill W. Pickett, her husband, Roger, and their children, Clint Daniel and Rhonda Sue, have accepted my time commitments and provided me with needed diversions and excellent meals when I could take time away from the computer. We have had many working sessions as well as memorable vacations together since I signed my first contract in 1972. Until her death in 1994, our mother, Martha Loraine Titus, shared many of those events with us. Her encouragement of her children's academic endeavors began with home teaching before we were old enough to go to school, enabling all of us to accelerate our academic programs. She continued to play a major role in our respective careers as well as those of the thousands of elementary school children who enrolled in her classes during her long and distinguished career. Her influence will never die, but her frequent words of encouragement are missed, along with those of our father and our brother, both of whom predeceased her.

Two of my dear friends and former colleagues, Marlyn Mather and Robert A. "Robin" Reid, have supported me through all of these books. Both continue to offer constructive criticism as well as encouragement and, most of all, a sense of perspective. Two of my colleagues from the University of Tulsa College of Law deserve special mention, both for their respective roles in attracting me to Tulsa and for their loyal support over the years. Rennard

Strickland is the dean of the Oklahoma City University School of Law, and Frank T. "Tom" Read is president and dean of the South Texas College of Law.

The employees of a publishing company have enormous control over the work lives of authors. On this manuscript I have been fortunate in having an excellent team of people who worked very hard to make my job as reasonable and pleasant as possible. Michael Alread, my acquisitions editor, who proposed the shorter version, is missed, but we wish him well in his new job. Tom Romaniak, my new editor, has taken on the project with great enthusiasm, and I am already looking forward to writing the next edition under his guidance.

Ava Suntoke copyedited this manuscript with a level of commitment and care that I had not experienced previously, and when I was pressed for time, she drafted picture captions or other details for me. I think she and Pam Carley, who sought pictures with the same care that Ava applied to words, know the manuscript as well if not better than I. On several occasions one or both of them suggested updates before I had a chance to do so. Both have become friends as well as colleagues, and I look forward to working with them on my next book.

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Sue Titus Reid

To Thomas W. Brooks, Esquire
with admiration, appreciation, and gratitude—
and to those who must seek their rights under
the boughs of the Americans with Disabilities Act

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A GUIDE TO LATIN TERMS

<i>de novo</i>	/dīy nówvow/	Literally means "for the good." Generally the term is used to refer to professional services, especially in law, performed without compensation.
<i>mala in se</i>	/mǎlə ìn síy/	Actions that are intrinsically immoral, such as murder, forcible rape, and robbery.
<i>mala prohibita</i>	/mǎlə prəhībədə/	Actions that are wrong because legislation prohibits them, although there may not be general agreement that they are wrong in themselves.
<i>mandamus</i>	/mǎndéyməs/	Literally means "we command." A writ of <i>mandamus</i> is an order from a higher court to a lower court (or to other organizations or persons within its jurisdiction) commanding that specified acts be performed. The writ is an extraordinary one and is not used frequently.
<i>mens rea</i>	/mén(d)z ríyǎ/	The guilty or criminal intent of the accused at the time the criminal act is committed.
<i>nolo contendere</i>	/nówlow kǎnténdəriy/	Literally means "I will not contest it." In a criminal case this plea has the legal effect of a guilty plea, but the plea cannot be used against the defendant in a civil action brought on the same act. It might be used in a case involving a felony charge of driving while intoxicated. A guilty plea could be used as evidence of liability in a civil action of wrongful death filed by the family of the victim who died in the accident, whereas a <i>nolo</i> plea requires that the plaintiff in the civil action prove liability.
<i>parens patriae</i>	/pǎrèn(d)z pǎetriiy/	"Parent of the country"; doctrine from English common law that was the basis for allowing the state to take over guardianship of the child. In the United States, the doctrine forms the basis for the juvenile court. The doctrine presumes that the state acts in the best interests of the child.
<i>pro bono</i>	/prów bównow/	Literally means "for the good." Generally the term is used to refer to professional services, especially in law, performed without compensation.
<i>pro se</i>	/prów síy/	"On behalf of self"; acting as one's own attorney.

stare decisis /stérij dəsáysəs/

"Let the decision stand." The doctrine that courts will abide by or adhere to the rulings of previous court decisions when deciding cases having substantially the same facts.

venire /vənáyriy/

Literally means "to come." A *venire* is the pool of persons summoned for jury duty in a particular case or cases and from which juries for those cases are selected.

voir dire /vwár dír/

To speak the truth; the process of questioning prospective jurors to determine their qualifications and desirability for serving on a jury.

(writ of) *certiorari* /sèrsh(iy)eréray/

Certiorari literally means "to be informed of." A writ is an order from a court giving authority for an act to be done or ordering that it be done; a writ of *certiorari* is used by courts that have discretion to determine which cases they will hear. It is used most commonly today by the U.S. Supreme Court when cases are appealed to that Court from lower courts.

(writ of) *habeas corpus* /héybiyəs kórpəs/

Technically, a written court order requiring that the accused be brought to court to determine the legality of custody and confinement. Refers also to writs filed by inmates regarding the alleged illegality of their confinement.

GUIDE TO PRONUNCIATION SYMBOLS

/a/: father /ay/: eye aye /ar/: bark /aw/: out /æ/: cat

/e/: dell /ey/: they /er/: there /ə/: above

/i/: sit /iy/: machine /ir/: pier

/or/: bore /ow/: know

ˈ 'acute' = primary stress

ˌ 'grave' = secondary stress

() 'parentheses' = optional element

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