

SAGE CRIMINAL  
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# COURTS AND JUDGES

**James A. Cramer**  
Editor

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Volume 15. **Sage Criminal Justice System Annuals**

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**JAMES A. CRAMER**

*Editor*



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*Dedicated to my wife, Mary Jane*

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*Dedicated to my wife, Mary Jane*



## PREFACE

This volume is designed to offer the reader a sourcebook of recent empirical research and thought on several of the major issues relating to the organization of the courts and functions of the judiciary. Hopefully, it will be of interest to researchers, practitioners and policy makers alike. The articles selected represent years of research by authors drawn from the disciplines of criminology, law, political science, and sociology. The authors have employed a variety of conceptualizations and methodologies in compiling the body of works presented here. And, while it was not possible to address all of the major issues pertaining to the organization and tasks of the judiciary, an attempt was made to focus on some of the more critical aspects which are in need of greater understanding.

The reader will note that in some instances, for example the socialization of judges, differences surface between the respective contributing authors. These differences reflect both the perspectives of the authors and the current state of knowledge in the field. There does not exist a seamless web of knowledge on matters concerning the judiciary. Furthermore, as with most areas of social inquiry, no single theory or approach will likely be sufficient for understanding and explaining the complex organization of the courts and decision making of the judiciary. Those who cast about in search of a single theory are apt to be dogged by frustration, disappointment, and, ultimately, defeat.

I would like to express my appreciation to the contributing authors for their cooperation in assembling this volume

of essays. The role of the National Institute of Justice in furthering knowledge about the criminal justice system should also be recognized. Most of the chapters in the present work are the direct result of research funded by the Institute. This support is gratefully acknowledged.

## **INTRODUCTION**

**JAMES A. CRAMER**

### **Criminal Justice, The Courts, and Organizational Theory**

In the past two decades the courts, and criminal justice system generally, have undergone a reconceptualization in the minds of many legal practitioners and researchers. Previously the justice system was viewed as being a unique amalgamation of agencies, loosely bound together by a body of law and a set of overlapping functions. It was argued that the system and its specific agencies were unlike other kinds of organizations, particularly in terms of the functions fulfilled and the nature of the relationship between the components within the overall organization.

Now, however, there is a growing body of literature that suggests that the criminal justice system and its agencies share many characteristics with other types of complex organizations (Eisenstein and Jacob, 1977; Stott et al., 1977; Sarri, 1976; Feely, 1973). Thus, it is increasingly common to see criminal justice agencies being cast into the existing body of organizational literature. The fact that this was relatively uncommon before the 1960s had the effect of fostering the belief that the criminal justice system was somehow different than other forms of organizations that were commonly the focus of social research. This implied, although it was usually never stated, that a different body of theory would be needed to understand and explain how the system worked. This attitude, coupled with problems of access to certain criminal justice agencies by social scientists, had the effect of



dampening the interest of researchers whose concerns were not confined solely to an analysis of the justice system.

In no criminal justice agency has the impact of organizational analysis had greater impact than in the courts. There are several factors that may account for this. These include, among others, the structure of the courts, the division of labor among court personnel, and access by researchers to the court system.

First, the court system as a unit is probably the most structured of all criminal justice agencies. There is a readily identifiable organizational structure. The span of control of each of the divisions of the court is clearly delineated and a formal hierarchy of court personnel can be observed. Although some researchers, notably Eisenstein and Jacob (1977), have reported that they have failed to ascertain a recognizable hierarchy in the courtroom workgroup, this should not be confused with the hierarchy within the court structure itself. Whether the unit of analysis is a specific court, the body of courts in a particular jurisdiction, or the complete court system on the state or federal level, a logically consistent and integrated organizational structure and hierarchy exists.

Second, the division of labor in the courts is more clearly prescribed than in other criminal justice agencies. The functions are not, for example, as blurred as those within the police organization, whose frequently overlapping functions between patrolmen and investigators or between departments such as traffic and patrol are characteristic of that organization. Thus, the *formal* division of labor in the courts is much more likely to be paralleled by the *actual* division of labor in the day-to-day operations than that which occurs within the police organization. This is not to suggest that there are not considerable differences in how work gets done or between "law on the books and the law in action." There is