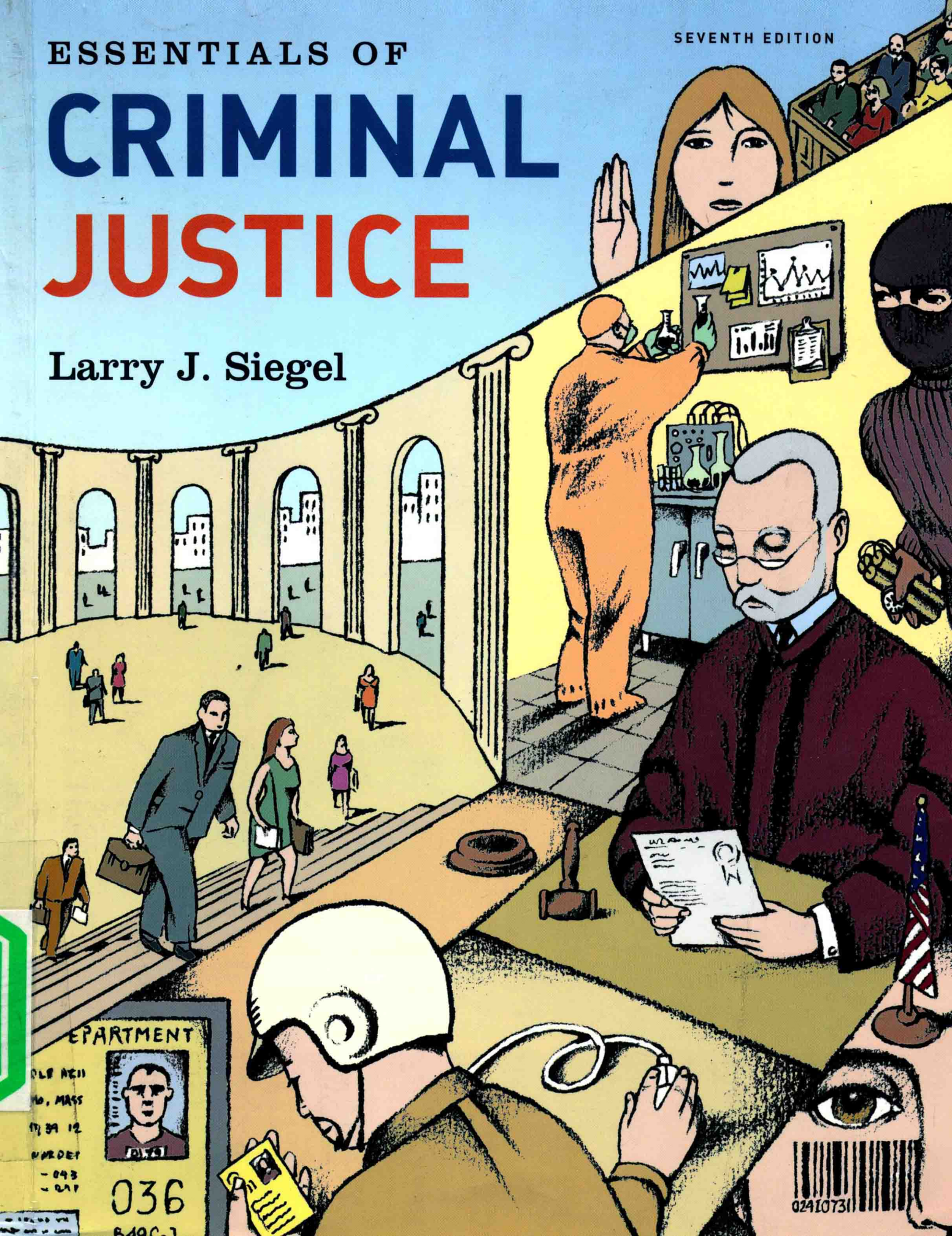


ESSENTIALS OF

CRIMINAL JUSTICE

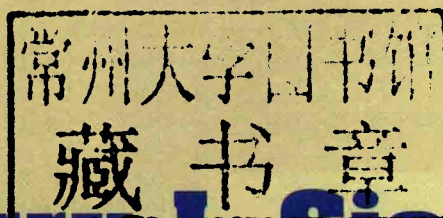
Larry J. Siegel

SEVENTH EDITION



ESSENTIALS OF
CRIMINAL
JUSTICE

S E V E N T H E D I T I O N



Larry J. Siegel

University of Massachusetts, Lowell

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ESSENTIALS OF CRIMINAL JUSTICE

Seventh Edition

Larry J. Siegel

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ESSENTIALS OF CRIMINAL JUSTICE



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Dedication

This book is dedicated to
my kids Eric, Andrew, Julie, and Rachel;
my grandkids Jack, Kayla, and Brooke;
and to my wife Therese J. Libby.

A B O U T T H E A U T H O R



The author with his wife, Therese, in Italy

Larry F. Siegel was born in the Bronx in 1947. While living on Jerome Avenue and attending City College of New York in the 1960s, he was swept up in the social and political currents of the time. He became intrigued with the influence contemporary culture had on individual behavior: Did people shape society or did society shape people? He applied his interest in social forces and human behavior to the study of crime and justice. After graduating CCNY, he attended the newly opened program in criminal justice at the State University of New York at Albany, earning both his M.A. and Ph.D. degrees there. After completing his graduate work, Dr. Siegel began his teaching career at Northeastern University, where he was a faculty member for nine years.

After leaving Northeastern, he held teaching positions at the University of Nebraska—Omaha and Saint Anselm College in New Hampshire. He is currently a professor at the University of Massachusetts—Lowell. Dr. Siegel has written extensively in the area of crime and justice, including books on juvenile law, delinquency, criminology, criminal justice, and criminal procedure. He is a court certified expert on police conduct and has testified in numerous legal cases. The father of four and grandfather of three, Larry Siegel and his wife, Terry, now reside in Bedford, New Hampshire, with their two dogs, Watson and Cody.

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Special Agent, Department of Homeland Security, Immigration and Customs Office of Investigations

On March 12, 2009, financier Bernard Madoff pled guilty to an 11-count criminal complaint, charging that he had defrauded thousands of investors out of billions of dollars in the most elaborate financial crime in the nation's history. How did Madoff manage to separate sophisticated investors from their hard-earned money?

Madoff founded the Wall Street firm Bernard L. Madoff Investment Securities LLC in 1960, and it soon became one of Wall Street's largest "specialist" trading firms. He became the darling of the jet set and was trusted by many wealthy people, including director Steven Spielberg, as well as sophisticated financial managers and investors. They were taken in by his promise of high returns and his long track record of success. However, when the market crashed in 2007–2008 and people wanted to withdraw their money, they found that the cupboard was bare. It seems that the "asset management arm" of his firm was a giant Ponzi scheme. Madoff had not invested any of his clients' money; instead, he had deposited it in various banks and used the interest and principal to pay off investors who needed cash. But until the crash, most people left their money in the account because they were making fantastic paper profits. When Madoff's house of cards fell apart, billions of dollars were missing, and no one seems to know where it all went.

Madoff later claimed that he merely wanted to satisfy his clients' demand for high returns and that their expectations simply could not be met by legal means. Instead, he resorted to an illegal scheme involving false trading activities, illegal foreign transfers, and false SEC filings. Madoff's Ponzi scheme has been estimated to have cost his clients an estimated \$65 billion, perhaps the largest criminal conspiracy in history. On June 29, 2009, Madoff was sentenced to 150 years in prison, a life sentence.¹

The Madoff case reminds us of the enormous impact that crime, law, and justice have had on the American psyche. Crime can range from a random mugging in the park to a multi-billion-dollar fraud involving highly educated corporate executives. As folksinger Woody Guthrie once put it,

*. . . through this world I've wandered
I've seen lots of funny men
Some will rob you with a six-gun
And some with a fountain pen.²*

The criminal justice system has been empowered by case law and legislation to protect us from these "funny men" who prey upon us with gun or pen. Each year the criminal justice system routinely processes millions of cases involving fraud, theft, violence, drug trafficking, and other crimes. How does this vast enterprise, which costs billions of dollars and involves millions of people, operate? What are its most recent trends and policies? How effective are its efforts to control crime? What efforts are being made to improve its efficiency? I have written the seventh edition of *Essentials of Criminal Justice* in an attempt to help answer these questions in a concise, forthright, and objective manner.

¹ Securities and Exchange Commission, "SEC charges Bernard L. Madoff for multi-billion-dollar Ponzi scheme," December 11, 2008, <http://www.sec.gov/news/press/2008/2008-293.htm> (accessed April 30, 2009); Joe Lauria, "Life inside the weird world of Bernard Madoff," Timesonline, March 22, 2009, http://business.timesonline.co.uk/tol/business/industry_sectors/banking_and_finance/article5949961.ece (accessed April 28, 2009).

² Woody Guthrie, "Ballad of Pretty Boy Floyd," http://www.woodyguthrie.org/Lyrics/Pretty_Boy_Floyd.htm.

GOALS AND OBJECTIVES

Because the study of criminal justice is a dynamic, ever-changing field of scientific inquiry, and because the concepts and processes of justice are constantly evolving, I have updated *Essentials of Criminal Justice* to reflect the most critical legal cases, research studies, and policy initiatives that have taken place during the past few years. *Essentials* lays a foundation for the study of criminal justice by analyzing and describing the agencies of justice and the procedures they use to identify and treat criminal offenders. It covers what most experts believe are the crucial issues in criminal justice and analyzes their impact on the justice system. This edition focuses on critical policy issues in the criminal justice system, including efforts to control and contain terrorism.

Thus my primary goals in writing this seventh edition remain the same as they have been for the previous six editions. They are that this book should

1. Provide students with a thorough knowledge of the criminal justice system
2. Be as readable and interesting as possible
3. Be objective and unbiased
4. Describe current methods of social control and analyze their strengths and weaknesses

Every attempt has been made to make the presentation of material interesting, balanced, and objective. No single political or theoretical position dominates the text; I try to be as objective as possible. Accordingly, I have included the many diverse views that are represented within criminal justice and that characterize its interdisciplinary nature.

NEW THEME

A main goal of this new edition is to expose some of the myths that persist about crime, criminals, and the criminal justice system. Given the popularity of television series such as *CSI* and *Law and Order*, which purport to strip away the veneer of the justice system and expose the truth, it has become essential to help students separate rhetoric from reality in the criminal justice system: Is the crime rate really out of control? Are unemployed people more likely than others to commit crime? Do detectives solve the most serious crimes? Do prisons really work? Does the death penalty deter people from committing murder? Making it clear what is true and what is merely legend is one of the greatest challenges for instructors teaching the first course in criminal justice. The all-new **RealityCheck** feature in *Essentials of Criminal Justice* meets that challenge head on. Its purpose is to separate myth from reality and thereby inform students of the incorrect notions, perceptions, and biases they bring to class as a result of what they see on television or read in fiction and on the Internet.

The **RealityCheck** theme is introduced in Chapter 1 so that students will realize just how misinformed they may be about criminal justice if their knowledge has been accumulated largely by Web surfing or watching television. Then, each part opener provides a ripped-from-the-headlines vignette that sets straight a prevalent misconception about crime, policing, courts and

the law, or corrections. And each chapter opens with a **RealityCheck** feature that consists of a list of “Myth or Reality?” statements highlighting common misconceptions about crime that are related to the subject of the chapter. As the chapter proceeds, these topics are discussed, and each statement is either revealed as a myth and corrected with true information or confirmed as an accurate statement about criminal justice today.

ORGANIZATION OF THE TEXT

My major goal when creating the seventh edition of *Essentials of Criminal Justice* was to simplify the presentation and write as clearly and concisely as possible. Therefore, I have streamlined the text while maintaining the essential features of past editions. I have made every effort to ensure that the book is informative, comprehensive, interesting, well organized, and impartial, yet stimulating and thought-provoking.

PART 1 gives the student a basic introduction to crime, law, and justice. The first chapter covers the agencies of justice, outlines the formal justice process, and introduces the concept of the informal justice system, which involves discretion, deal making, and plea bargains. Chapter 1 examines the major perspectives on justice and shows how they shape justice policy. Chapter 2 discusses the nature and extent of crime and victimization: How is crime measured? Where and when does it occur? Who commits crime? Who are its victims? What social factors influence the crime rate? Chapter 3 provides a discussion of the criminal law and its relationship to criminal justice. It covers the legal definition of crime, the types of defenses available to those charged with having committed a crime, as well as issues in constitutional procedural law.

PART 2 offers an overview of law enforcement. Three chapters cover the history and development of police departments, the functions of police in modern society, issues in policing, and the police and the rule of law. Special emphasis is placed on community policing and crime prevention, technology and policing, and changes in police procedures.

PART 3 is devoted to the court process, from pretrial indictment to the sentencing of criminal offenders. In this section, individual chapters focus on the organization of the court system and the roles of its major participants (judge, prosecutor, and defense attorney), pretrial procedures, the criminal trial, and sentencing. The topics explored include bail, court reorganization, sentencing, and capital punishment.

PART 4 focuses on the correctional system, including probation and the intermediate sanctions of house arrest, intensive supervision, and electronic monitoring. Although the traditional correctional system of jails, prisons, community-based corrections, and parole is discussed at length, there is also a new focus on restorative justice programs. Such issues as the crisis of overcrowding in prisons and jails, house arrest, correctional workers, super-maximum-security prisons, and parole effectiveness are discussed.

PART 5 explores current issues in justice. One chapter deals with the problem of juveniles who break the law. What should be done with them and how should they be treated? There is information on the development of juvenile justice, on waiving youth to the adult court, and on the death penalty for children. Chapter 14, which appears for the first time in this edition, focuses on two of the critical issues currently facing the justice system: terrorism and cyber crime. It illustrates the dynamic nature of the justice process and the fact that the problems it faces are constantly evolving.

KEY CHANGES IN THE SEVENTH EDITION

In addition to infusing the new **RealityCheck** theme into the seventh edition, I have thoroughly updated and revised each chapter. Discussions are more concise—leaner than ever before. And the book contains many new graphs, figures, charts, and tables that make the presentation easier to understand. Finally, I have made the following key changes to the text.

- **Chapter 1, Crime and Criminal Justice**, has been thoroughly revised and has been updated with new data on criminal justice expenditures and the numbers of people in the correctional system.
- **Chapter 2, The Nature of Crime and Victimization**, contains new data on immigration and crime and shows how crime rates among immigrants may actually be lower than those found in the general population. There is a new concept summary on the definitions of crime. Data on child abuse and hate crimes has been updated and expanded. The sections on crime data have been expanded. The section on international crime has been revised and updated.
- **Chapter 3, Criminal Law: Substance and Procedure**, has a boxed feature on gun control that has been substantially revised in the aftermath of the Heller decision prohibiting governmental jurisdictions from banning guns outright. There is also a new section on neurolegal defenses to crime that rely on showing that neurological activity or the lack of it, measured through brain scan devices, can cause a person to commit crime.
- **Chapter 4, Police in Society: History and Organization**, has a reorganized section on police history. More federal law enforcement agencies are covered. Now the federal law enforcement agencies are organized into two categories: Justice Department agencies and Homeland Security agencies. There is a new *Careers in Criminal Justice* box featuring the position of Border Patrol agent.
- **Chapter 5, The Police: Role and Function**, has a new section titled “Improving Patrol” that features a discussion of rapid response and broken windows policing. There is also a new section on the effectiveness of community policing. A new *Policies, Programs, and Issues* box features the National Academy of Sciences report *Strengthening Forensic Science in the United States*.
- **Chapter 6, Issues in Policing: Professional, Social, and Legal**, contains a new section on police fatigue and another new section titled “Use of Force.” The *International Justice* box is also new and features interrogation law in three other countries. The section “Police and the Rule of Law” has been updated and reorganized.

- **Chapter 7, Courts, Prosecution, and the Defense**, now has a dedicated section on problem-solving courts, as well as a new exhibit featuring court staff. Updated caseload statistics appear, as does a new section on the appointment of federal judges, including U.S. magistrate judges.
- **Chapter 8, Pretrial and Trial Procedures**, is a new chapter that combines material from former Chapters 9 and 10, thus ensuring balanced coverage, with three chapters each in Parts 2, 3, and 4 on policing, the courts, and corrections. This took the book down to 14 manageable chapters. Chapter 8 also includes an expanded “Legal Rights during Trial” section and a new *Policies, Programs, and Issues* box featuring the so-called CSI effect.
- **Chapter 9, Punishment and Sentencing**, includes the latest punishment statistics and an expanded treatment of how race affects sentencing. It also includes a dedicated section on error and wrongful convictions in the death penalty context. The three-strikes and capital punishment sections have been revised and updated to include the latest research.
- **Chapter 10, Community Sentences: Probation, Intermediate Sanctions, and Restorative Justice**, features a new *Criminal Justice and Technology* box that discusses monitoring probationers with technology. The section on administration of probation services has been redone. There is a section on specialized probation: teams of probation officers who focus on clients convicted of one specific type of crime, such as drug offenses or domestic violence, rather than working with a wide variety of offenders. Privatization of probation services is also discussed.
- **Chapter 11, Corrections: History, Institutions, and Populations**, contains revised and updated data on prison and jail populations. There is more material on jail populations and new-generation jails. A new section covers the development of parole. A new Concept Summary focuses on defining early correctional systems. And a new *Criminal Justice and Technology* box looks at contemporary correctional technology.
- **Chapter 12, Prison Life: Living in and Leaving Prison**, has a new section on sexual coercion, long considered common in penal institutions. New sections cover anger management and efforts to control violent criminal behavior both in the institution and upon prisoners’ release into the community. Another new section looks at faith-based programs and reviews research suggesting that inmates involved in religious programs and education do better following release than those in comparison groups. The problems of reentry are reviewed in some detail.
- **Chapter 13, Juvenile Justice in the Twenty-first Century**, updates data on juvenile court processing. The section titled “Waiver of Jurisdiction” has also been improved and reorganized.
- **Chapter 14, Criminal Justice in the New Millennium: Terrorism, Homeland Security, and Cyber Crime**, is an all-new chapter that addresses such topics as the definitions of terrorism and cyber crime. It covers the debate over the utility and problems associated with the USA Patriot Act. There is much information on the various forms of cyber crime (including cyber terrorism) and on what law enforcement agencies are doing to thwart cyber criminals. A Concept Summary table provides an overview of the types of cyber crime. A *Criminal Justice and Technology* feature discusses how biometrics is being used to fight terrorism in the US-VISIT program.

BOXED FEATURES

The boxed features that address **Policies, Programs, and Issues** in *Criminal Justice* help students to think critically about current justice issues, policies, and practices. For example, “Forensics under the Microscope” looks at the critical field of forensic science and some of its problems.

- **Criminal Justice and Technology** boxes review some of the more recent scientific advances that can aid the justice system. In Chapter 10, for example, a feature titled “Monitoring Probationers with Technology” describes such technologies as ankle bracelets that collect data on the unique patterns of movement associated with foot-to-brake, foot-to-gas pedal, and acceleration and deceleration of a motor vehicle.
- **Careers in Criminal Justice** We have updated this very popular feature of the previous edition with information on the latest career paths in criminal justice. These boxes contain detailed information on salaries, educational requirements, and future prospects, and we have added to each of these boxes a new “Word to the Wise” section, discussing the potential pitfalls of that career area, as well as what might disqualify a person from the career or job highlighted.
- **International Justice** boxes look at crime and crime control efforts in other countries. For example, Chapter 6 features a new box that compares interrogation laws in three countries.

OTHER IMPORTANT CHAPTER FEATURES

Every chapter of *Essentials of Criminal Justice* also contains learning tools to enhance student mastery of the material.

- **Learning Objectives.** Each chapter begins with a list of key learning objectives. These objectives are then revisited in the **Summary**, where they are directly tied to the material covered in the text.
- **Career Profiles.** Each chapter starts with a vignette describing in detail the background and activities of a working member of the criminal justice system. This feature is designed to give students insight into criminal justice careers. It traces how the people profiled chose their careers, their educational background, what they do on the job, and what they see as their greatest challenges.
- **Research Links.** Throughout the book there are a variety of weblinks that help students do further research and reading on the Internet. Some of these are links to websites containing information that can enrich the textual material.
- **Ethical Challenges in Criminal Justice: A Writing Assignment.** Each chapter presents a writing assignment that challenges students to solve an ethical dilemma they may someday confront while working within the justice system. For example, the ethical challenge posed in Chapter 2 concerns a criminologist who believes there may be an association between IQ and crime. She wants to do research investigating this possible association. The assignment is for students to decide—and explain—whether they would grant this criminologist permission to conduct her research.

ANCILLARIES

For the Instructor

Instructor's Resource Manual with Test Bank. The manual, written by Lisa Zilney of Montclair State University, includes learning objectives, key terms, a detailed chapter outline, a chapter summary, discussion topics, student activities, and a test bank. Each chapter's Test Bank contains questions in multiple-choice, true/false, fill-in-the-blank, and essay formats, with a full answer key. The Test Bank is coded to the learning objectives that appear in the main text, and it includes the page numbers in the main text where the answers can be found. Finally, each question in the Test Bank has been carefully reviewed by experienced criminal justice instructors for quality, accuracy, and content coverage. Our Instructor Approved seal, which appears on the front cover, is our assurance that you are working with an assessment and grading resource of the highest caliber.

PowerLecture DVD. This one-stop digital library and presentation tool includes preassembled Microsoft® PowerPoint® lecture slides—now linked to the text's learning objectives and featuring all-new animations and simulations—as well as the full Instructor's Manual and Test Bank, ExamView, JoinIn, video, and image libraries.

ExamView® Computerized Testing. The comprehensive Instructor's Resource Manual described above is backed up by ExamView, a computerized test bank available for IBM-PC compatibles and Macintosh computers. With ExamView you can create, deliver, and customize tests and study guides (both print and online) in minutes. You can easily edit and import your own questions and graphics, change test layouts, and reorganize questions. And, using ExamView's complete word processing capabilities, you can enter an unlimited number of new questions or edit existing questions.

ABC Video Program. ABC videos feature short, high-interest clips from current news events, as well as historic raw footage going back 40 years. Perfect for discussion starters or to enrich your lectures and spark interest in the material in the text, these brief videos provide students with a new lens through which to view the past and present, one that will greatly enhance their knowledge and understanding of significant events and open up new dimensions in learning. Clips are drawn from such programs as *World News Tonight*, *Good Morning America*, *This Week*, *PrimeTime Live*, *20/20*, and *Nightline*, as well as numerous ABC News specials and material from the Associated Press Television News and British Movietone News collections.

JoinIn™ on TurningPoint®. Spark discussion and assess your students' comprehension of chapter concepts with interactive classroom quizzes and background polls developed specifically for use with this edition of *Essentials of Criminal Justice*. Also available are polling and quiz questions that enable you to maximize the educational benefits of the ABC News video clips that we custom-selected to accompany this textbook. Cengage Wadsworth's exclusive agreement with TurningPoint software lets you run our tailor-made Microsoft® PowerPoint® slides in conjunction with the "clicker" hardware of your choice. Enhance the way your students interact with you, your lecture, and each other. For college and university adopters only. Contact your local Cengage representative to learn more.

WebTutor™. Jump-start your course with customizable, rich, text-specific content within your Course Management System. Whether you want to Web-enable your class or put an entire course online, WebTutor™ delivers.

WebTutor™ offers a wide array of resources, including media assets, test bank, practice quizzes, and additional study aids. Visit webtutor.cengage.com to learn more.

Lesson Plans. The Lesson Plans, created by Todd Scott of Schoolcraft College, bring accessible, masterful suggestions to every lesson. The Lesson Plans include a sample syllabus, learning objectives, lecture notes, discussion topics, in-class activities, a detailed lecture outline, and assignments. Lesson Plans are available on the **PowerLecture** resource and the instructor website, or you may email your local representative and ask for a download of the eBank files.

Website. The book-specific website at www.cengage.com/criminaljustice/siegel offers students a variety of study tools and useful resources, such as quizzing, weblinks, Internet exercises, glossary, flashcards, and more.

Criminal Justice Media Library. Available to stream from any Web-enabled computer, the Media Library includes nearly 300 media assets on a wide range of topics. These include Careers in Criminal Justice, Comparative/International, Corrections, Courts, Crime and the Media, Criminal Evidence / Procedure, Criminal Investigation, Criminal Law, Criminology, Cyber Crime, Drugs, Ethics, Forensics, Fundamentals of Criminal Justice, History of Criminal Justice, Juvenile Justice, Organized Crime, Policing, Research Methods, Security, Serial Killers, Statistics, Terrorism, Victimology, White-Collar Crime, Women and Criminal Justice.

Course360. This resource is a complete turnkey solution that teaches course outcomes through student interaction in a highly customizable online learning environment. **Course360** blends relevant content with rich media and builds on your course design, needs, and objectives. With a wide variety of media elements, including audio, video, interactives, simulations, and more, **Course360** is the way today's students learn best.

For the Student

Study Guide. An extensive student guide has been developed for this edition by Todd Scott of Schoolcraft College. Because students learn in different ways, the guide includes a variety of pedagogical aids to help them. Each chapter is outlined and summarized, major terms and figures are defined, and self-tests are provided.

CengageNOW. This unique, interactive online resource has the student take a chapter pretest and then offers him or her a personalized study plan. Once the student has completed the personalized study plan, a posttest evaluates her or his improved comprehension of chapter content.

Careers in Criminal Justice website available bundled with this text at no additional charge. Featuring plenty of self-exploration and profiling activities, the interactive Careers in Criminal Justice website helps students investigate and focus on the criminal justice career choices that are right for them. Includes interest assessment, video testimonials from career professionals, résumé and interview tips, and links for reference.

CLeBook. CLeBook allows students to access Cengage Learning textbooks in an easy-to-use online format. Highlight, take notes, bookmark, search your text, and (in some titles) link directly into multimedia: CLeBook combines the best aspects of paper books and ebooks in one package.



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LARRY SIEGEL
Bedford, New Hampshire

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