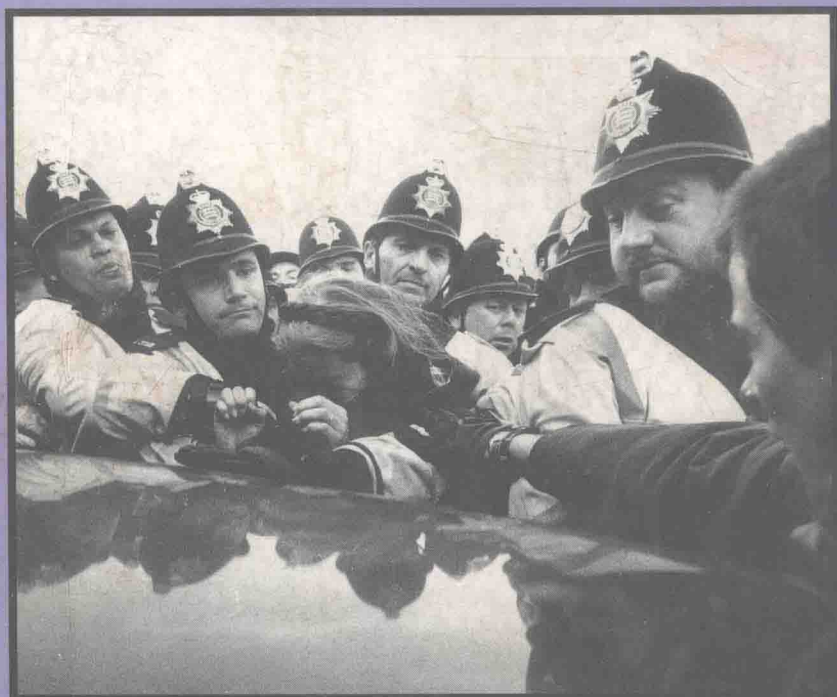


CRIMINAL JUSTICE

Steve Uglow



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CRIMINAL JUSTICE

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For Jenny

Preface

This book has grown out of my experience of teaching in law schools for 20 years. Although a teacher of criminal law, the day-to-day reality and, for me, the fascination lies in the interstices of enforcement: the processes which precede the accused's appearance in court, the problems of establishing facts at the trial or the operation of the penal system. Doctrinal niceties of appellate decisions had less appeal. Perhaps I share that relative lack of interest with some members of the House of Lords whose lack of concern with principle and with coherence in criminal jurisprudence should give cause for concern, especially in decisions such as *Brown*. No doubt criminal appeals may be seen as of marginal importance when compared with other weightier matters competing for their attention. But in any society one of the acid tests of "fairness" rests is the manner in which we deal with those embroiled in the criminal justice system. Getting the substantive criminal law and procedure right should be regarded as a basic requirement.

For students, substantive law should always be placed in its context. At one level this can be simply a procedural context, for example ensuring knowledge of the powers of arrest or the rules for drafting indictments. But more importantly (and to the students' dismay) it is necessary to grapple with the historical and cultural aspects of "justice". Equally important is knowledge of how the police, prosecutors and prisons operate and an understanding of how governmental policies affect these. This book is the result of seeking to teach criminal law in context.

There is a singular lack of texts covering "Criminal Justice A-Z" although there are many excellent books on the subject of the police or prisons. I now know why that vacuum exists. The sheer breadth of the subject is daunting and the changes, particularly at this time, constant. It was a serious mistake to stop smoking during the writing of this book. I have sought to do "justice" (whatever that might be) to all aspects of the criminal process, not simply from the legal perspective but from the standpoint of the system's history, its ethical basis and the social policy issues involved. It was an ambitious remit and I know that I have failed to give proper attention to several areas—for example, women, ethnic minorities and victims all deserve more systematic attention than I have been able to give them.

Twenty years ago the writing of such a book would have been much more difficult because of the relative dearth of material. Students of criminal justice owe a debt to those whose pioneering research has created a wealth of material to draw upon—I must acknowledge Andrew Ashworth, John Baldwin, Tony Bottoms, Pat Carlen, Doreen McBarnett, Mike McConville, Rob Reiner as well as the work of the Home Office Research Unit. As a result of this work, the institutions of criminal justice are more open. Public and political debate has no excuse for not being properly informed.

The last five years has seen possibly unprecedented turbulence throughout the criminal justice system and successive Home Secretaries, notably Michael Howard, have alienated professionals in almost every part of the service—the

repercussions from the reorganisation of the police resulting from the Sheehy Report will scarcely die away before the report on the “core” functions of policing will emerge in 1995 with the prospect of the privatisation of some police tasks; sentencing policy which was radically changed (for the better!) in 1991 was turned on its head in 1993 with the abolition of unit fines and the prospect of still more crowded jails; the effect of Woolf on the Prison Service with improved conditions and regimes in our prisons has been nullified by unnecessary restrictions on home leave and temporary release, kneecapping many resettlement programmes; ironically the prisons themselves have had major security scares and the staff are demoralised by creeping privatisation; civil liberty lawyers are dismayed by a cavalier overturning (against Royal Commission advice) of a right to silence which goes back centuries, let alone by the widening of the criminal law by the criminalisation of squatters, partygoers, hunt protestors and travellers; probation officers and social workers are outraged at the creation of prisons (secure training units) for 12 year old children.

History will no doubt acknowledge the Home Secretary’s contribution. Closer to home, I would like to thank Peter Amey and Chris Hale, colleagues in the UKC Police Research Group for their willingness to talk about policing issues, to Deborah Cheney and the members of Canterbury Prison’s Board of Visitors for concentrating my mind on prison issues and to Dick Whitfield, for his enthusiasm in organising the UCK/Kent Probation criminal justice seminar programme which has provided many insights into the practical realities. My colleagues at Kent Law School have been a fertile seed bed for many years and I have received particular help from Liz Cable and Freda Vincent.

Much of this was written over the summer of 1994 and revised over the following Christmas—my family saw very little of me and I owe them much for their understanding, not least to Jenny whose encouragement has never wavered but she understands “obsessive writing syndrome” better than most.

Despite the passage of the Police and Magistrates’ Courts Act 1994 and the Criminal Justice and Public Order Act 1994, I have endeavoured to state the law as it is on January 1st 1995.

Steve Uglow
April 1995

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