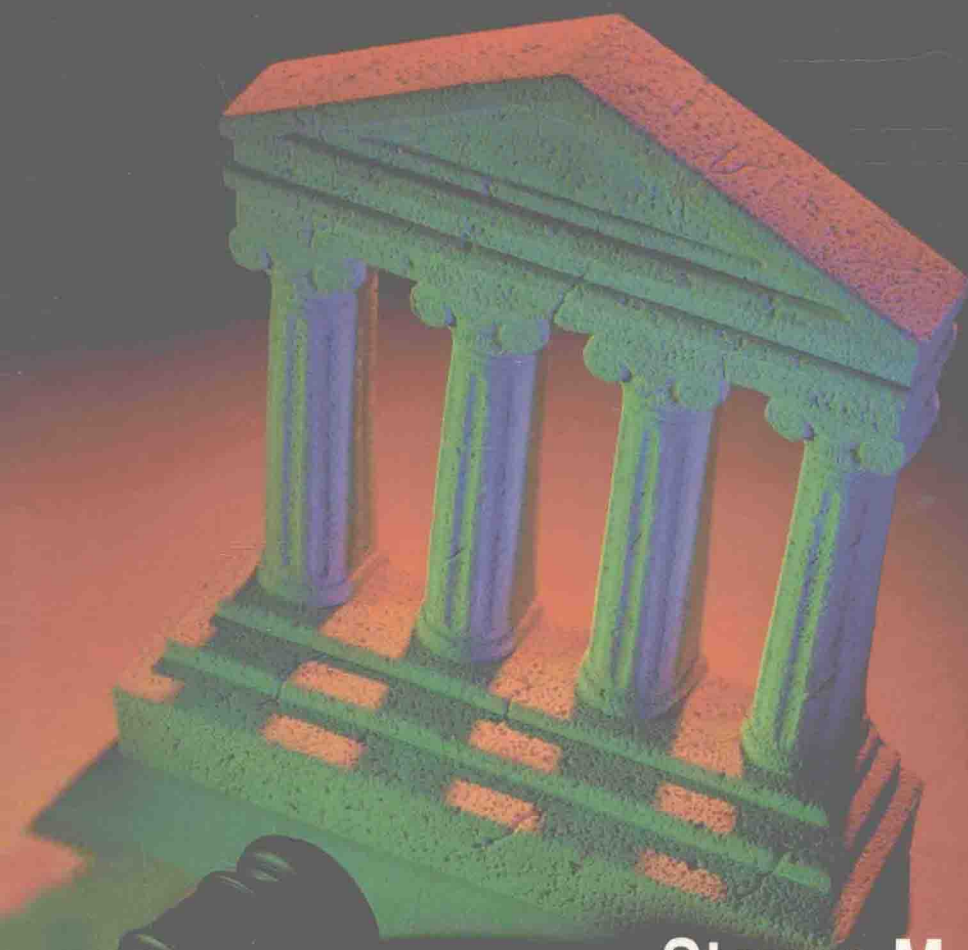


The Criminal Justice Network

*Third
Edition*

An Introduction



Steven M. Cox
John E. Wade

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Western Illinois University

Third Edition



Boston, Massachusetts Burr Ridge, Illinois Dubuque, Iowa
Madison, Wisconsin New York, New York San Francisco, California St. Louis, Missouri

McGraw-Hill

A Division of The McGraw-Hill Companies

COX-WADE: THE CRIMINAL JUSTICE NETWORK, AN INTRODUCTION, Third Edition

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2 3 4 5 6 7 8 9 0 QPF QPF 9 0 9 8 7

ISBN 0-697-12699-4

Editorial director: *Phil Butcher*

Sponsoring editor: *Nancy Blaine*

Project manager: *Peggy Selle*

Production supervisor: *Mary Jess*

Compositor: *A-R Editions, Inc.*

Cover design: *Graham Lee, A-R Editions, Inc.*

Typeface: *10/12 Times Roman*

Printer: *Quebecor Printing, Fairfield*

Library of Congress Catalog Number: 96-85978

www.mhcollege.com

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Preface

In this new edition of the book, we continue to provide a comprehensive, practical view of criminal justice in the United States. We still believe that the criminal justice network can best be understood by comparing the day-to-day, practical aspects of the network with the theoretical model on which the network is based. In our view, this approach involves a thorough examination of the role of the public, the uses and abuses of discretion throughout the system, and the effects of political considerations on the day-to-day operations of the criminal justice network. For example, we feel that it is important to recognize the public as the most crucial (and most often neglected) component of the criminal justice network. Without public cooperation, the police would be severely hampered, the courts would not be properly utilized, probation and parole would be totally unworkable, and the entire system could not be financed. Similarly, the importance of discretion in the criminal justice network cannot be underestimated. Discretion plays an important role at all levels of the network—from the use of discretion by citizens in calling the police, to the use of discretion by police officers and departments in determining how to handle calls from the public, to the use of discretion by the prosecutor in deciding whether a particular case should be prosecuted, to judicial discretion in sentencing.

Superimposed on the criminal justice network is the political structure of the society in which the network exists, and the influence of political decisions and considerations cannot be overlooked.

In the following pages, we have tried to take these practical aspects of criminal justice into consideration as we discuss the various components, procedures, and bases of criminal justice in the United States. We have attempted to define technical terms clearly when they are presented, and we have included personal experiences and practical examples in an attempt to present the introductory student with a basic understanding of both the theoretical and the practical aspects of the criminal justice network.

In chapter 1, the issue of whether we have a criminal justice “system” in the United States is raised, as is the issue of “justice.” Also in this chapter, we take a

close look at the role of the public in criminal justice and at some of the underlying assumptions of the criminal justice network.

Chapter 2 emphasizes the importance of political considerations and discretion in the day-to-day operations of the criminal justice network. The pervasive influence of politics—from the selection of local fire and police commissioners, prosecutors, and judges to the appointments made by the president of the United States to fill Supreme Court vacancies—is considered. Relationships among power, authority, and political position are examined to better understand why some segments of the public feel powerless and perceive the criminal justice process in the United States as basically unjust. We point out that politics plays a major role in criminal justice by changing many of the ideals of the “system” into practical realities. The chapter includes a discussion of some of the positive and negative consequences of political considerations for the criminal justice network. The major premise of the section on discretion is that it is a normal and desirable part of the criminal justice network. The exercise of discretion by the public, police, prosecutors and defense counselors, judges, and correctional officials is discussed in terms of such everyday occurrences as testifying in court, setting bail, sentencing, and granting parole or probation.

The relationships among law, criminal law, and justice are explored in chapter 3. The origins, nature, and functions of law are discussed, and law is examined as one type of social control.

In chapters 4 and 5, we discuss various types of crime, beginning with the distinction between felonies and misdemeanors. These chapters deal with white-collar crimes and crimes without victims, or, as we prefer to call them, “crimes without complainants.” The feasibility of enforcing laws dealing with these types of offenses is discussed in terms of public perceptions, the exercise of discretion, and the influence of politics, power, and status. Recently defined offenses such as stalking and carjacking are discussed as well.

The police are the topic of chapters 6 and 7. We begin with a brief historical overview of the police and go on to discuss the various functions and responsibilities of the police in contemporary society. Positive and negative aspects of the traditional police organization are discussed, and some recent organizational innovations, including community policing, are introduced. Procedures employed by the police in processing offenders are described in the overall context of the criminal justice network. Legal requirements related to arrest, search, and seizure are analyzed in terms of both theory and practice. Selection and training requirements are also discussed.

An overview of the courts is provided in chapter 8. The dual court system employed in the United States is discussed, and both state and federal systems are explained. The role of the grand jury, the use of the information, and the importance of jury trials are discussed, and the chapter concludes with the presentation and analysis of some pressing problems of contemporary courts.

In chapter 9, court personnel—including the prosecutor, defense counsel, and judge—are considered. The functions and responsibilities of these officials are discussed, as are methods of selection, the exercise of discretion, and the importance to each of plea bargaining.

Chapter 10 deals with pretrial procedures from initial appearance and the setting of bail through the preliminary hearing. Different types of pleas, the arraignment process, the rules of discovery and disclosure, and other pretrial options are considered.

The criminal trial itself is the subject of chapter 11, which includes a comparison of jury and bench trials and an analysis of reasons why the defendant might choose one instead of the other. Moving through the trial sequentially, we explain both the theoretical and the practical significance of opening statements, rules of evidence, and various motions and objections that may be encountered as well as closing arguments, instructions, jury deliberations and verdicts, and sentencing and appeals processes. Chapter 12 discusses the roles of victims and witnesses in the criminal justice network. The fact that victims and friends of victims help shape public perceptions of the network is emphasized, as are the rights of the victim (until recently a largely forgotten person in the criminal justice network). Victim compensation and restitution programs are also described.

Jails and prisons are the topics of chapters 13 and 14. These chapters focus on the purposes and uses of correctional facilities both in theory and in practice. Problems with incarceration are discussed, as are prisoners' rights, capital punishment, intermediate sanctions, and other alternatives to incarceration.

Chapter 15 deals with the juvenile justice network. A brief historical overview is presented, followed by a discussion of juvenile justice procedures. The chapter concludes with a look at some of the problems faced by contemporary juvenile justice practitioners.

Throughout the book, we have tried to provide recent examples to illustrate the points in question. We have added discussions of community policing, stalking, intermediate sanctions, and other new or recycled materials. The appendix helps the reader scan important court decisions mentioned in the book as well as become more familiar with the U.S. Constitution. Discussion questions, references, and suggested readings are provided at the end of each chapter.

Acknowledgments

A number of people have helped in the preparation of this book. For their encouragement and assistance we would like to thank Professor Donald J. Adamchak, Professor John J. Conrad, Dr. William P. McCamey, Dr. Robert Fischer, Dr. Giri Raj Gupta, William C. Flint, Glenn Hedenberg, and Professor Robert W. Whittenbarger.

We also want to thank the reviewers of the second edition and the manuscript for the third edition for their many helpful suggestions: Henry DeLuca, Westfield State College; Rebecca Donna, Illinois Valley Community College; Gary Feinberg, St. Thomas University (Miami); Terry Miller, Clinton Community College; Charles Ousley, Seminole Junior College; Jim Santor, Community College of Southern Nevada; Tom Todd, Glenville State College; and Mel Wallace, McHenry County College.

For substantive contributions we would like to thank Professor Dennis C. Bliss, Professor Stan Cunningham, Professor G. E. Davila, Professor Gary S. Foster, the late Professor Robert Jaquith, Professor William E. Johnson, Ray Kasak, the late Jerri Pecharich, and Professor Richard Brede.

Special thanks to Joyce Becker and Ann, Matthew, and Melissa Cox for their patience, support, and understanding. Thanks also to Bud and Freda Wade.

Contents

Preface xv

Acknowledgments xviii

1

Criminal Justice in the United States: *A Network of Interaction*

Key Terms 3

The Forgotten Component: The Public's Role in the Criminal Justice
Network 12

Some Key Assumptions 14

Summary 18

Key Terms Defined 19

Discussion Questions 19

References 19

Suggested Readings 20

2

Politics, Discretion, and the Criminal Justice Network

Key Terms 23

The Pervasive Influence of Politics: From the Police and Courts to
Corrections 24

Power, Authority, and Politics 31

Recognizing the Consequences of Politics in the Criminal Justice
Network 32

Discretionary Justice 33

Public Discretion 36

Police Discretion	36
Prosecutorial and Defense Discretion	39
Judicial Discretion	40
Plea Bargaining as a Form of Discretion	41
Correctional Discretion	41
Summary	42
Key Terms Defined	43
Discussion Questions	43
References	44
Suggested Readings	45

3

Law and Criminal Law

Key Terms	47
The Origins, Nature, and Functions of Law	48
Criminal Law	52
Law in the United States	54
Summary	55
Key Terms Defined	56
Discussion Questions	56
References	57
Suggested Readings	57

4

Types of Crime: I

Key Terms	59
Some Important Distinctions	60
Crimes against the Person	61
<i>Homicide</i>	61
<i>Assault and Battery</i>	64
<i>Forcible Rape</i>	65
<i>Other Sex Offenses</i>	66
Crimes against Property	67
<i>Robbery</i>	67
<i>Larceny/Theft</i>	67
<i>Burglary</i>	69
<i>Arson</i>	70

Recent Developments in Criminal Law	71
Measuring Crime	72
<i>Victim Survey Research</i>	73
<i>Self-Report Studies</i>	74
Summary	75
Key Terms Defined	75
Discussion Questions	76
References	76
Suggested Readings	77

5

Types of Crime: II

Key Terms	79
Crimes without Complainants	80
<i>Prostitution and Related Offenses</i>	80
<i>Drug Offenses</i>	81
<i>Gambling</i>	82
White-Collar Crime	83
<i>Fraud</i>	85
Organized Crime	88
Summary	88
Key Terms Defined	89
Discussion Questions	89
References	89
Suggested Readings	90

6

The Police: *History and Development*

Key Terms	93
The Role of the Police in Social Control	94
From Watchmen to Crime Fighters to Community Organizers	94
Current Police Functions	97
Police Law Enforcement Procedures	99
Police Order Maintenance Activities	103
Community Policing	104
Summary	106
Key Terms Defined	107

Discussion Questions	107
References	107
Suggested Readings	108

7

The Police: *Organization, Selection, and Training*

Key Terms	111
Some Variations on the Traditional Police Organization: Research and Change	114
Selection, Training, and Education of the Police	119
Summary	125
Key Terms Defined	125
Discussion Questions	126
References	126
Suggested Readings	126

8

The Courts: *An Overview*

Key Terms	129
Basic Concepts	130
The Court Systems	132
State Court Systems	132
The Federal Court System	135
Summary	141
Key Terms Defined	141
Discussion Questions	141
References	142
Suggested Readings	142

9

Court Personnel

Key Terms	145
The Prosecutor	146
The Defense Counsel	148
The Relationship between the Prosecutor and Defense Counsel	150

The Judge	152
The Probation Officer	154
Managing the Courts	154
<i>Chief Judges</i>	155
<i>Court Clerks</i>	155
<i>Court Administrators</i>	155
Summary	156
Key Terms Defined	157
Discussion Questions	157
References	157
Suggested Readings	158

10

Pretrial Procedures

Key Terms	161
Initial Appearances	162
The Administration of Bail	163
<i>Consequences of Bail</i>	164
<i>Protecting Society</i>	165
<i>The Determination of Bail</i>	166
<i>The Effects of Monetary Bail</i>	167
Formal Charging or Accusation	168
The Grand Jury	168
Information and Preliminary Hearings	171
Arraignment	172
Pretrial Motions and Hearings	174
<i>Motion for Change of Venue</i>	174
<i>Motion for Continuance</i>	175
<i>Motions for Suppression and Exclusion of Evidence</i>	175
<i>Motion for Discovery</i>	175
<i>Motion for Disclosure</i>	176
<i>Motion for Dismissal</i>	176
Summary	176
Key Terms Defined	176
Discussion Questions	177
References	177
Suggested Readings	178

11

Criminal Trial

Key Terms	181
The Right to a Speedy Trial	182
Jury Trials: A Great American Myth	183
<i>Plea Bargains</i>	183
<i>Summary and Bench Trials</i>	184
<i>The Jury Trial</i>	185
Order of Trial	189
Sentencing	192
Appeals	195
Summary	195
Key Terms Defined	196
Discussion Questions	197
References	197
Suggested Readings	198

12

Victims and Witnesses in the Criminal Justice Network

Key Terms	201
Civil Remedies	207
Restitution	207
Private Insurance	208
State-Subsidized Compensation Programs	208
A Brief Historical Overview of Victim Compensation and Restitution	209
Consequences of Dissatisfied Victims and Witnesses	211
Summary	212
Key Terms Defined	212
Discussion Questions	213
References	213
Suggested Readings	213

Key Terms	215
Historical Development	216
<i>The Reform Movement</i>	218
<i>The American Experience</i>	219
The Pennsylvania and Auburn Systems	219
Contemporary Corrections	220
<i>Correctional Objectives</i>	220
Revenge	220
Specific Deterrence	222
General Deterrence	222
Rehabilitation	223
<i>Capital Punishment: Timeless Controversy, Ultimate Penalty</i>	223
A Brief History of Capital Punishment	224
Death Penalty Arguments	225
Court Decisions and the Death Penalty	229
<i>Correctional Organization</i>	229
The Federal Network	230
State Networks	230
Types of Institutions	231
<i>Maximum Security Facilities</i>	231
<i>Medium Security Facilities</i>	231
<i>Minimum Security Facilities</i>	232
Jails	232
<i>History of Jails</i>	232
<i>Control and Organization</i>	232
<i>Jail Problems</i>	233
Evaluating Prison Rehabilitation Programs	233
<i>The Prison Society</i>	234
<i>Rehabilitation versus Custody</i>	235
<i>Education and Vocational Training in Prison</i>	236
Summary	236
Key Terms Defined	237

Discussion Questions	237
References	238
Suggested Readings	239

14

Prisoners' Rights and Alternatives to Incarceration

Key Terms	241
Freedom of Speech	242
Freedom of Religion	243
Cruel and Unusual Punishment	243
Due Process	243
Alternatives to Incarceration	246
<i>Probation</i>	246
<i>Community Correctional Programs</i>	248
<i>Parole</i>	248
Summary	250
Key Terms Defined	250
Discussion Questions	251
References	251
Suggested Readings	252

15

Juvenile Justice

Key Terms	255
Juvenile Justice: A Historical Overview	256
Defining and Measuring Delinquency	257
Purpose and Scope of Juvenile Court Acts	258
Juvenile Justice Procedures	258
Current Dilemmas in Juvenile Justice	267
Summary	272
Key Terms Defined	272
Discussion Questions	273
References	273
Suggested Readings	273

Constitution of the United States of America	276
Amendments to Constitution of the United States of America	284
<i>Mapp v. Ohio</i>	291
<i>Miranda v. Arizona</i>	293
<i>Chimel v. California</i>	310
<i>In Re Gault</i>	314

<i>Name and Case Index</i>	330
<i>Subject Index</i>	333