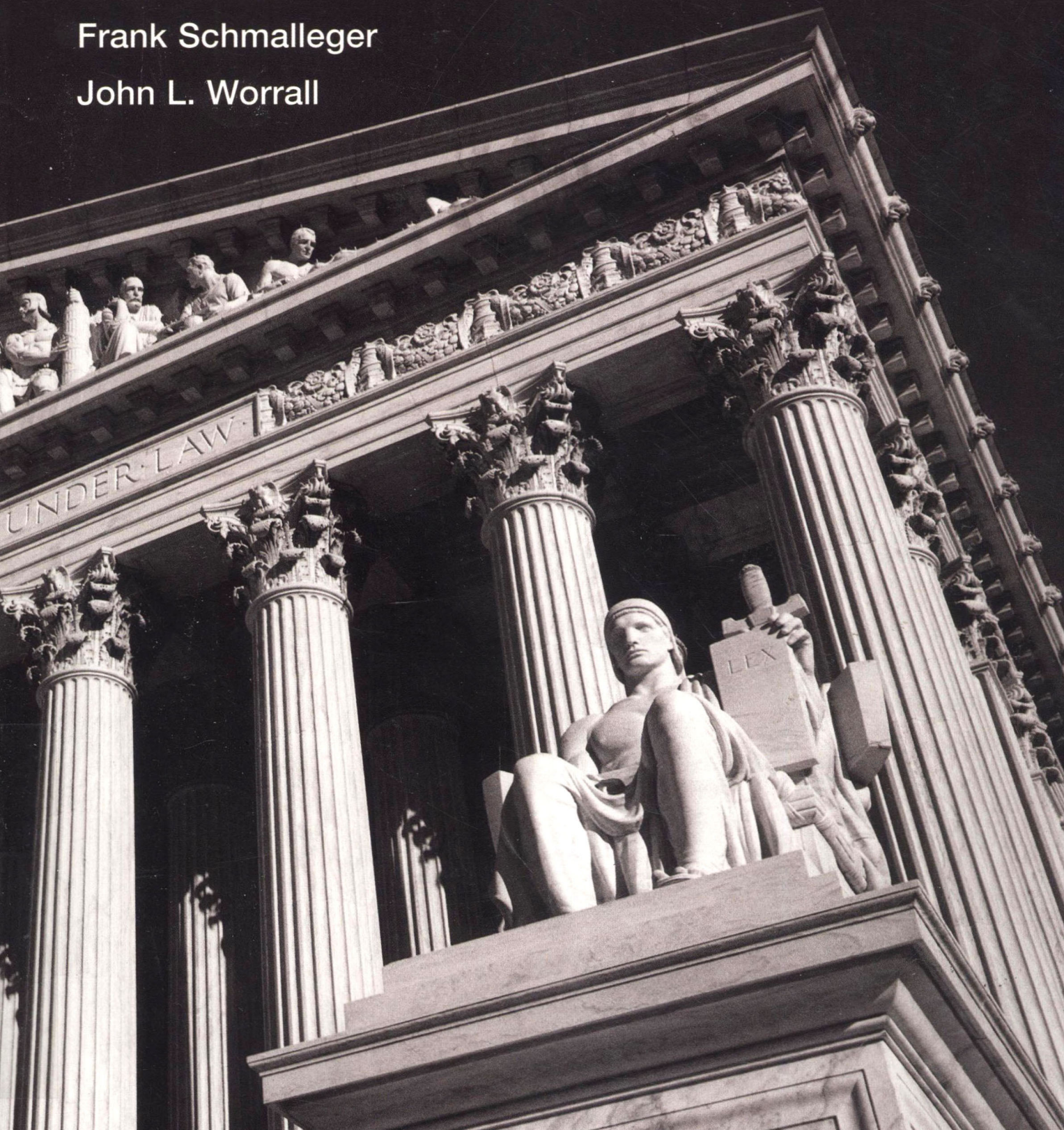


Courts and Criminal Justice in America

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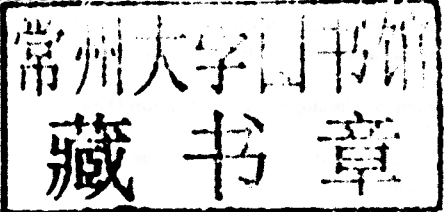
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Courts and Criminal Justice in America

Preface

In 2003, Savana Redding, then a 13-year-old eighth-grade honors student at Safford Middle School about 127 miles from Tucson, Arizona, was strip-searched by school officials after a fellow student accused her of providing prescription-strength ibuprofen (Advil, Motrin) tablets to another girl. Savana was searched because the school has a zero-tolerance policy for all over-the-counter medications, and students cannot possess them without prior written permission.

After the accusation was made, Savana was taken out of class by a male vice principal. A preliminary search did not turn up drugs on her person or in her backpack. Although Savana had never had prior disciplinary problems, she was subjected to a strip search by the school nurse and another female employee. During the search, she was forced to strip to her underwear and her bra was pulled out. Again, no drugs were found. Savana told authorities, "The strip search was the most humiliating experience I have ever had. I held my head down so that they could not see that I was about to cry."

The key issues in this case are whether school administrators are allowed to conduct searches of students in order to determine if they possess banned substances and how far officials can go to conduct legal searches. A federal appeals court found the search "traumatizing" and illegal, stating in its opinion, "Common sense informs us that directing a 13-year-old girl to remove her clothes, partially revealing her breasts and pelvic area, for allegedly possessing ibuprofen . . . was excessively intrusive." It went on to say that the "overzealousness of school administrators in efforts to protect students has the tragic impact of traumatizing those they claim to serve. And all this to find prescription-strength ibuprofen." However, rather than let the court's decision stand, the school district appealed the case to the U.S. Supreme Court, complaining that restrictions on conducting student searches would erect a "roadblock to the kind of swift and effective response that is too often needed to protect the very safety of students, particularly from the threats posed by drugs and weapons" (*Safford United School District No. 1 v. Redding* [08-479]).

The *Redding* case aptly illustrates the role the courts play in shaping social behavior. The case does not involve an abstract legal theory but instead concerns the regulation of routine or everyday behavior. Its impact can be felt by almost every American citizen—those who are in school, those who have a school-age child, and those who are simply concerned about such issues as liberty, privacy, and personal freedom. How far should authorities be able to go? Should they be able to physically intrude on a person? When do they go too far?

Savana Redding is a real person who was forced to undergo a traumatic and humiliating experience. Put yourself in her shoes for a moment. Can you imagine what it must feel like for a young adolescent female to be asked to disrobe in front of strangers? Should she have had to endure such a search?

We have written *Courts and Criminal Justice in America* because of cases such as Savana's, cases that illustrate the tremendous power the court system has to regulate citizens' lives, to shape what is acceptable and what is forbidden, and to ensure that criminal justice policy does not run afoul of people's rights and liberties.

APPROACH

We take a balanced, modern, and comprehensive approach in this book. It is balanced in the sense that we present all sides of the most controversial issues facing courts today. We firmly believe that there are two sides to every story and that while there may be a convincing argument against a particular set of practices, it is also important to consider the opposing view. For example, the case of racial disparities is taken up in Chapter 15. Many researchers have found evidence of racial discrimination in criminal justice, but to accept such claims on their face leaves much unsaid. What is meant by discrimination? Depending on how it is defined, different conclusions can be reached. We do not take sides in this book; we simply present what is known about various issues confronting the courts and let the reader draw his or her own conclusions.

Our approach is modern in the sense that we cover a wide range of cutting-edge topics and novel practices. For example, we dedicate an entire chapter to so-called specialized courts, such as homeless courts. We situate them within the historical development of the court system and discuss strategies to solidify their place in the American judicial landscape well into the future. As another example, we also look at the problem of wrongful convictions and DNA-based exonerations, both of which have captured plenty of headlines in recent years. From the beginning of the book to the end, you will find a wide range of topics that stir controversy and enliven discussion as they relate to the courts.

Finally, ours is arguably the most comprehensive introduction to America's courts you will find. *Courts and Criminal Justice in America* covers not only the basics about courts and the personnel who bring them to life but also the context in which they operate and the complexities of human interaction found at every level. This book is also comprehensive in that it does not presuppose any

knowledge about the courts or how they operate. We begin with a basic definition of courts and discuss why it is important to have government courts. Then we delve more deeply into the constant struggle for control over the courts that takes place, the many types of courts and the cases that they adjudicate, and the myriad persons and interests that compete for the courts' attention on a daily basis. Rest assured that no stone has been left unturned.

GOALS

Our goal is for each reader of *Courts and Criminal Justice in America* to understand the following:

- The importance that courts have in modern society
- Pressures that courts face and the context in which they operate
- Various types of courts that range from the all-powerful U.S. Supreme Court to limited jurisdiction courts
- Professionals who are involved at all stages of the court process (including judges, prosecutors, and defense attorneys)
- The role of victims who participate in the court process
- The role of criminal defendants who are tried in the courts
- Rights that are enjoyed by accused persons (such as the rights to counsel and a jury trial)
- The court process that goes from arrest all the way through to conviction (whether by trial or plea bargaining), sentencing, and appeal
- Reasons that not every case or person is treated the same
- The role of technology that is used in the courts today
- Alternatives to trials that are available
- Difficult issues that courts are likely to face as time goes by

TOPICAL COVERAGE

Courts and Criminal Justice in America is divided into five parts. Part 1 (Chapters 1 and 2) discusses the legal foundations of America's court system and the many different efforts to control the courts from the outside. Part 2 (Chapters 3–6) presents the main types of courts, beginning with federal and state courts and then moving to juvenile

and specialized courts. Part 3 (Chapters 7–10) introduces the people involved in the court process. We begin with the members of the courtroom workgroup: judges, prosecutors, and defense attorneys. Then we discuss the roles and rights of defendants and victims. Part 4 (Chapters 11–14) takes a close look at the court process, starting with the arrest, the initial appearance, the bail decision, the charges, and the process of discovery; we also look at plea bargaining, guilty pleas, the jury, the trial, the sentencing process, the types of appeals, and even *habeas corpus*. Finally, Part 5 (Chapters 15 and 16) examines current issues and the future of U.S. courts. Topics covered include differential treatment, wrongful convictions, technology, alternatives to courts, and both emerging problems and pressing issues that courts will continue to face.

PEDAGOGICAL FEATURES

Courts and Criminal Justice in America includes a number of special learning features that are designed to enhance student comprehension of key concepts and issues in the study of American courts. *Courts in the News* boxes contain contemporary feature stories of interest to anyone studying the courts, along with thought-provoking questions that build on each story. One box, for example, discusses federal courts that offer digital audio recordings of their proceedings online; another reviews the 2008 U.S. Supreme Court case of *District of Columbia v. Heller*, in which the right to individual gun ownership was upheld; a third covers the issues involved in paying for America's courts; and another examines alternative courts and their possible future.

A second important learning feature is the *Lasting Impact* boxes found throughout the text that highlight the continued significance of important court cases such as *Mapp v. Ohio*, *Gideon v. Wainwright*, *Terry v. Ohio*, *Gregg v. Georgia*, *In re Gault*, *Payne v. Tennessee*, and *Daubert v. Merrell Dow Pharmaceuticals*.

What Will You Do? provide a third learning feature. These scenario-based activities bring focus to issues such as Web-based conferencing in virtual courtrooms, the notion of precedent as it applies to police decision-making and the issue of victim advocacy.

A fourth feature, *Focusing Questions*, is located at the beginning of each chapter. These questions are linked to bulleted summary items that refresh students' memory about the chapter's key points. *Review Questions* at the end of each chapter relate back to the *Focusing Questions* posed at the chapter's start.

Other learning features include *Web Extras* and *Library Extras*. Web Extras lead readers to websites, blogs, and in-depth postings of importance to the study of courts.

Following are some of the organizations that the Web Extras provide links to:

Administrative Office of the U.S. Courts
 American Bar Association's Center for Professional Responsibility
 American Judges Association
 American Judicature Society
 Center for Constitutional Rights
 Center for Court Innovation
 Center on Wrongful Convictions
 Electronic Discovery Blog
 Harlem Parole Reentry Court
 Innocence Project
 National Association of Criminal Defense Lawyers
 National Association of Drug Court Professionals
 National Center for State Courts
 National Council of Juvenile and Family Court Judges
 National Youth Court Center
 Sentencing Project
 U.S. Supreme Court

Some Web Extras also feature video segments of relevance to the study of courts, including a few from Brightcove.com, *Frontline*, and responsible postings to YouTube.

Library Extras provide links to important court-related documents on the Internet. They focus on topics as diverse as the fundamental nature of the adversarial system, judicial ethics, the judicial process, essential elements of courtroom safety, court cultures, community courts, the exclusionary rule, the issue of plea bargaining, the law of arrest, the process of juror selection, and selected writings of Oliver Wendell Holmes.

SUPPLEMENTS

The *MyCrimeKit* website (www.mycrimekit.com) that supports this book offers multimedia, practice quizzes, scenario essay assignments, suggested readings, practice flashcards with highlighted key terms, links to state law resources, CJ Blogs, a Career Center feature, and access to the Pearson's Criminal Justice Cybrary and Research Navigator. Margin notes throughout the chapters mark videos, simulations, and other media on MyCrimeKit that relate to the chapter material. A box at the end of each chapter lists the study tools and resources available for that chapter on MyCrimeKit. Also available is the CourseSmart electronic version of this text (0-13-507844-X).

To access supplementary materials online, instructors need to request an instructor access code. Go to www.pearsonhighered.com/irc, where you can register for an instructor access code. Within 48 hours of registering, you will receive a confirming e-mail, including an instructor access code. Once you have received your code, go to the site and log on for full instructions on downloading the materials you wish to use. Online supplements include:

- Instructor's Guide with Test Item File (0-13-174577-8)
- TestGen computerized test bank (0-13-174579-4)
- PowerPoint Presentation (0-13-174580-8)

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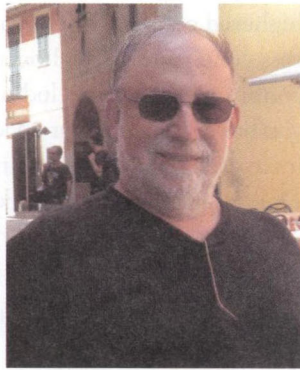
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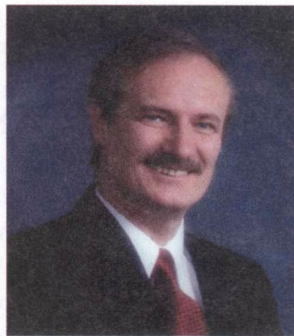
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About the Authors

Larry J. Siegel was born in the Bronx and graduated from Christopher Columbus High School in 1964. After attending City College of New York in the 1960s, he pursued his interest in social forces and human behavior when he became a member of the first class of the newly created graduate program in criminal justice at the State University of New York at Albany. After earning his M.A. and Ph.D., Dr. Siegel began his teaching career at Northeastern University; then he held teaching positions at the University of Nebraska, Omaha, and Saint Anselm College in New Hampshire. He currently is a professor of criminal justice at the University of Massachusetts, Lowell. Professor Siegel has published books on juvenile law, delinquency, criminology, and criminal procedure. The father of four, grandfather of three, Larry and his wife, Terry, reside in Bedford, New Hampshire, with their two cockapoos, Watson and Cody.



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Dr. Schmallegger has taught in the online graduate program of the New School for Social Research, helping to build the world's first electronic classrooms in support of distance learning through computer telecommunications. As an adjunct professor with Webster University in St. Louis, Missouri, he helped develop the university's graduate program in security administration and loss prevention and taught courses in that curriculum for more than a decade. An avid

Web user and website builder, Professor Schmallegger is also the creator of a number of award-winning websites.

Dr. Schmallegger is the author of numerous articles and more than 30 books, including the widely used *Criminal Justice Today* (Prentice Hall, 2011), *Criminal Justice: A Brief Introduction* (Prentice Hall, 2010), *Criminology Today* (Prentice Hall, 2009), and *Criminal Law Today* (Prentice Hall, 2011).

Professor Schmallegger is the founding editor of the journal *Criminal Justice Studies*. He has also served as editor for the Prentice Hall series *Criminal Justice in the Twenty-First Century* and as imprint adviser for Greenwood Publishing Group's criminal justice reference series.

Dr. Schmallegger's philosophy of both teaching and writing can be summed up in these words: "In order to communicate knowledge, we must first catch, then hold, a person's interest—be it student, colleague, or policy maker. Our writing, our speaking, and our teaching must be relevant to the problems facing people today, and they must in some way help solve those problems." Visit the author's website at <http://www.schmallegger.com>.

John L. Worrall is a professor of criminology at the University of Texas at Dallas. A Seattle native, he received a B.A. (with a double major in psychology as well as law and justice) from Central Washington University in 1994. Both his M.A. (criminal justice) and Ph.D. (political science) were received from Washington State University, where he graduated in 1999. From 1999 to 2006, Professor Worrall was a member of the criminal justice faculty at California State University, San Bernardino. He moved to Texas in the fall of 2006.



Dr. Worrall has published articles and book chapters on a wide variety of topics ranging from legal issues in policing to community prosecution. He is the author of *Crime Control in America: What Works?* (2nd ed., Allyn and Bacon, 2008) and *Criminal Procedure: From First Contact to Appeal* (3rd ed., Pearson Education, 2010); the coauthor of *Police Administration* (3rd ed., Cengage, forthcoming), *Policing Today* (Prentice Hall, 2010), and *Criminal Evidence: An Introduction* (Oxford University Press, 2005); and the co-editor of *The Changing Role of the American Prosecutor* (SUNY, 2009). He is also editor of the journal *Police Quarterly*.

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PART

1

Foundations

CHAPTER 1 Legal Foundations

CHAPTER 2 Who Controls the Courts?



Legal Foundations

FOCUSING QUESTIONS

- What is a court, and what is its purpose? What is a dual court system? Which main court function—upholding the law, protecting people's rights, or resolving disputes—is most important?
- What is the legal basis for today's courts? What role did early legal codes, the common law, and precedent play in the development of courts? What is the role of courts in criminal justice today?
- By what means do courts protect everyone, from law-abiding citizens to hardened criminals? How do presumptions factor into this? Constitutional rights? The adversarial system?
- What types of disputes do courts resolve? How is each different from the others?