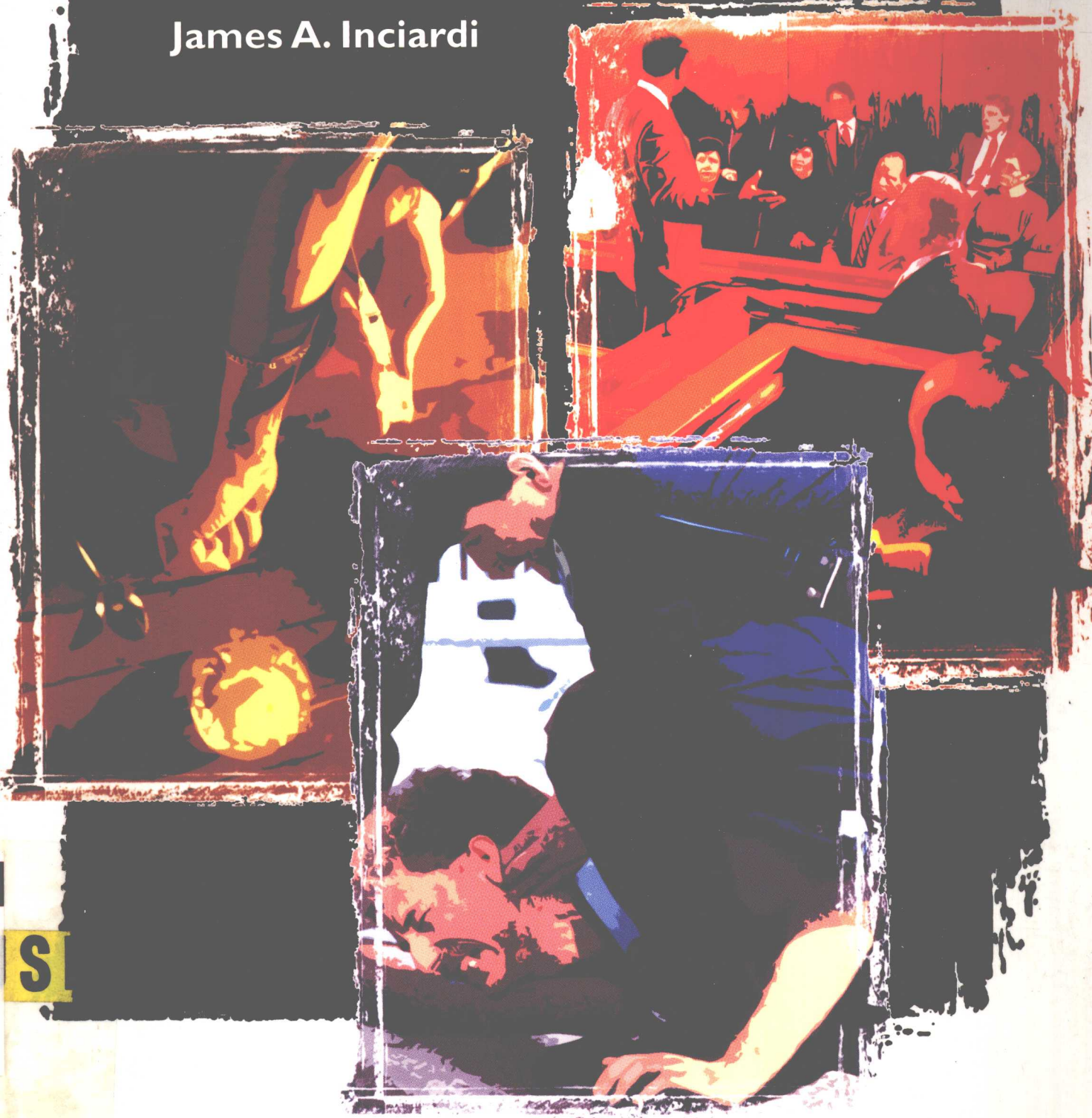


Elements of Criminal Justice

James A. Inciardi



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University of Delaware

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Using Elements of Criminal Justice

A Guide to Learning From Your Textbook



Elements of Criminal Justice was designed to help you understand and think about the fascinating and complex subject of criminal justice, and to illuminate and illustrate the many concepts, terms, and examples that will be presented in your criminal justice course.

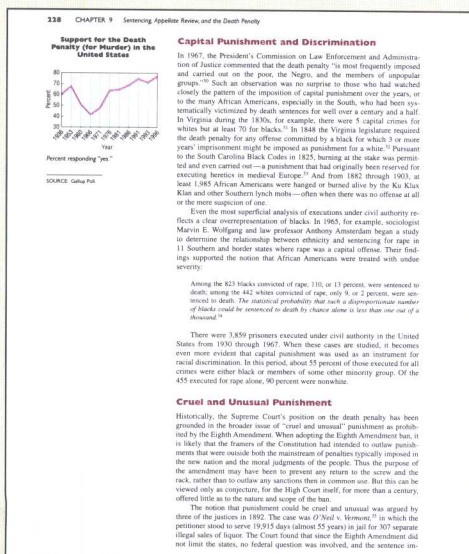
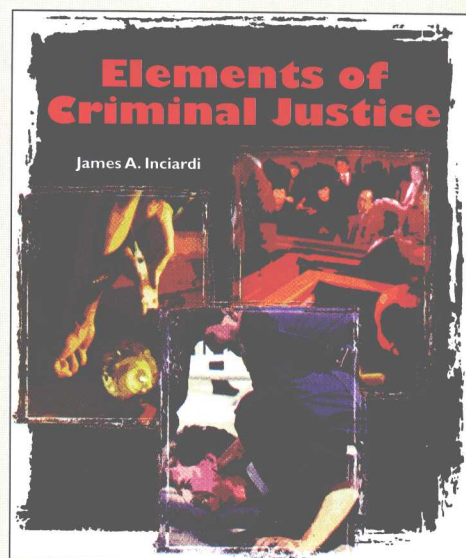
Elements of Criminal Justice

- Offers a comprehensive resource for information about the nature of crime and the processes of criminal justice
- Provides an analysis of the administration of justice in its contemporary forms and historical roots
- Provides the most current empirical research and contemporary principles along with fascinating examples of real situations

The following pages will introduce you to the many features of *Elements of Criminal Justice* and show you how to use the learning aids built into each chapter to enhance your criminal justice course.

ACCESSIBILITY AND ECONOMY: RECOGNIZING STUDENT PRIORITIES

Because we know that accessibility and value are important to most students, we have presented *Elements of Criminal Justice* in a brief, paperback format. The text is a comprehensive introduction to criminal justice, yet it is only half the length of many other texts. Not only does this ensure that reading assignments for the course will be manageable, it allows us to sell the book at a much lower price than many other texts.



THE MOST CURRENT, MOST SIGNIFICANT RESEARCH IS CLEARLY PRESENTED FOR EASY UNDERSTANDING

Criminal Justice is a rapidly changing field, one in which studying the most current research and empirical data is essential. As the most recently published text, *Elements of Criminal Justice* features data from the most recent sources, including 1996 statistics. The author, James A. Inciardi, is an internationally recognized researcher and scholar, who also has experience as an officer in the criminal justice system. No text more successfully combines important research with the real-world interest of personal experience.

REAL-WORLD ILLUSTRATIONS AND EXAMPLES CAPTURE AND KEEP YOUR INTEREST

A hallmark of Inciardi's many books is his use of gripping and relevant illustrations to enhance the text's discussion. Throughout *Elements of Criminal Justice* you will find photos and drawings that bring the world of criminal justice into sharper focus. In addition, cartoons placed throughout the text illustrate principles with a lighter touch. Often disturbing, frequently provocative, and always committed to an unflinching look at reality, the illustrations in *Elements of Criminal Justice* complete the picture as you study.

CONTEMPORARY ISSUES IN CRIMINAL JUSTICE BOXES FOCUS ON CURRENT EVENTS AND ENDURING CONTROVERSIES

Throughout the text, you will notice boxes that focus on Contemporary Issues in Criminal Justice. These boxes present current events in the context of the chapter's historical and theoretical concerns, and illustrate how crime and justice enter our lives every day. They include discussions of topics such as carjacking, domestic violence, prisoners and AIDS, and alternatives to incarceration.

Women and Criminal Justice

Gender, Rights, and the Possibilities of Program Reform

In 1988, Brenda Vaughan of Washington, D.C., gave birth to a healthy baby in just an unusually long time for a first offender convicted of first-degree murder. However, the prevailing judge had to prove her innocence from court.

Female Studies of the 1980s, after defining her pregnancy as a step toward drug use during pregnancy, was arrested and incarcerated on a charge of failing to provide for her baby. Her child was subsequently born damaged and died after only 4 weeks.

Bonnie Green of Rockford, Illinois, was born in February 1989, suffering from severe congenital depression and died 2 days later. After cocaine was found in the baby's urine, as well as in the bloodwork of her mother, Plaintiff, the mother was arrested and charged with child abuse, supplying drugs to a minor, and involuntary manslaughter.

Since the close of the 1980s, with almost 400,000 drug-related deaths being born annually in the United States, many state and county attorneys have been induced to prosecute mothers who use drugs after the fact by taking illegal drugs. Charges include child abuse, child neglect, assault, manslaughter, and drug delivery.

Such actions have not met with universal approval, however. As a result, whether pregnant women who use drugs should be considered a public health problem or a criminal justice problem is a matter of debate.

Without question, drug-exposed infants are at risk. The extent of this risk, however, is unclear. Studies suggest that the neurological damage is related to prenatal crack use is likely to be related to the mother's use of crack, not to the mother's use of crack.

Prosecutors argue that the threat of criminal charges will help deter pregnant women from using drugs, and that the threat of criminal charges will help deter pregnant women from using drugs.

At the same time, "real rights" and "real rights" advocates insist that the state must intervene to ensure proper medical care for both mother and child. There is also the non-negotiable pro-life agenda to chip away at the 1973 decision in *Roe v. Wade* (410 U.S. 113), which granted women the right to an abortion, and hence gave her rights to fetuses.

By contrast, public health officials and women's advocates claim that the threat of prosecution will instead scare women away from the medical help they need.

Along with many drug abuse clinicians and researchers, they further argue that drug use during pregnancy is a community health problem that is more properly addressed through the expansion of drug treatment services designed specifically for mothers-to-be.

How this controversy will be resolved is still difficult to predict. On the one hand, the growing number of women taking "real rights" are often called for the historical examination of the underlying causes of drug use.

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apparent. Young vandals and burglars see themselves more often as "punksters" than as thieves. Nonprofessional forgers, shoplifters, and pickpockets are typically victims of temporary or desperate financial situations, or they engage in an occasional theft for the sake of adventure and excitement. Edwin M. Lemert's study of "naive check forgers," although undertaken many decades ago, clearly illustrates the factors associated with this common form of occasional property crime as a behavior system. Lemert found that many arrested forgers included professional, clerical, skilled, and craft workers who were, for the most part, respectable members of their communities. Many had no prior criminal records, and those who did had been involved in only minor offenses on an infrequent basis. The situations that led them into forgery included such contingencies as business failure, unemployment, gambling losses, alcoholic oppression, family or marital conflict, and separation or divorce. Elaborate planning of the forgery was not typical of this group of offenders, and the forgers were extremely simple—the forgers wrote fictitious checks, passed falsified checks, and issued personal checks without

Adjudication and Disposition

At the adjudication inquiry, which is generally closed to the public and the media, the judge determines whether the facts of the case and the child's behavior warrant a formal hearing by the court. This inquiry is similar in purpose to the intake hearing, but now it is a magistrate who rules on the need for further processing. The magistrate can dismiss the case, order a formal adjudication hearing, or refer the juvenile to the juvenile court.

In recent years, the juvenile justice system in the United States has sought out many alternatives for avoiding the official adjudication of youths. The major mechanism is diversion out of the court system into community agencies for counseling and treatment. However, a youth may refuse diversion and request a formal adjudication hearing.

The adjudication hearing is not a trial. Given the parent's purpose of a civil rather than a criminal proceeding, the judge presides on behalf of the child to determine if he or she actually committed the alleged offense, and, if so, to use the misconduct described to determine if the youth's parents are providing adequate care, supervision, and discipline. The judge relies on any financial, social, or diagnostic reports that may have been prepared. Should the judge determine that no misconduct occurred, the case is dismissed. If youth misconduct is apparent, the youth is "adjudicated delinquent" and a disposition hearing is scheduled.

At disposition hearings, juvenile court judges have extremely broad discretion. They have the authority to dismiss a case, give the juvenile a warning, impose a fine, order the payment of restitution, require the performance of community service, refer the offender to a community agency or treatment facility, place the child on probation under the supervision of a court officer, place the child on some informal probationary status, put the child in a foster

Processing Juvenile Offenders 177

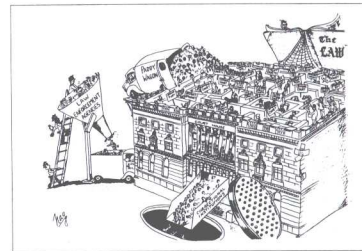


One officer stands with an unaccompanied minor purchased from a drug dealer used for protection.

Adjudication inquiry: The stage in juvenile court proceedings in which a judge determines whether the facts of the case warrant a formal hearing by the court.

Adjudication hearing: The stage in juvenile court proceedings in which a judge presides on behalf of the child to determine if he or she actually committed the alleged offense.

Disposition hearing: The stage in juvenile court proceedings in which the judge determines whether the facts of the case warrant a formal hearing by the court.



A simplified guide to the criminal justice system.

circles operating along alternative and often conflicting paths; also, one segment of the system often serves as a dumping ground for each of the others. In addition, questions of definition and interpretation can compound the complexity of criminal procedure even further.

Law enforcement agencies interpret the definition of a situation to determine if a law has been violated. Prosecution and defense attorneys interpret the law and the social situation of the alleged offense to determine which laws were violated and to assess the culpability of the accused. Juries interpret the information provided by the police and courts to determine the innocence or the extent of guilt of the defendant. Judges interpret the evidence presented and the character of the offender to determine the nature and type of sentence and to issue that "due process" has been achieved. And finally, correctional personnel interpret their knowledge of the law, social science, correctional administration, and human behavior to determine the appropriate custodial, correctional, rehabilitative, and punitive treatment for each convicted criminal.

Not only is there a lack of unity of purpose and organized interrelationships among police, courts, and corrections, but also, individual interpretations of crime, law, evidence, and culpability at every phase of the process create further inefficiency. Criminal justice in the United States, therefore, is hardly a "system." However, this is to be expected from a process of justice in a democratic society in which checks and balances have been built in at every level so that the fairness of due process can be achieved.

Contemporary Issues in Criminal Justice

The Public Prosecutor and the Second Amendment

April 19 is a conspicuous date in contemporary American history. It was on that day in 1993 that the National Rifle Association (NRA) and the Second Amendment to the U.S. Constitution were at the center of a heated debate. The NRA, which has long been a vocal advocate of the Second Amendment, was opposing gun control. But even more controversial was the fact that the NRA was not only opposing gun control, but also was opposing the Second Amendment.

A well-regulated militia being necessary to the security of a free state, the people have a right to keep and bear arms and shall not be infringed.

The NRA, which has long been a vocal advocate of the Second Amendment, was opposing gun control. But even more controversial was the fact that the NRA was not only opposing gun control, but also was opposing the Second Amendment.

two characteristics—opposition to gun control and distrust of government. Gun-control laws, such as the 1994 Brady Bill and the assault weapons ban, have been passed by Congress and signed by President Clinton. The NRA, which has long been a vocal advocate of the Second Amendment, was opposing gun control. But even more controversial was the fact that the NRA was not only opposing gun control, but also was opposing the Second Amendment.

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be a "New World Order" under which all of civilization will be dominated by a single world government. The NRA, which has long been a vocal advocate of the Second Amendment, was opposing gun control. But even more controversial was the fact that the NRA was not only opposing gun control, but also was opposing the Second Amendment.

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WOMEN AND CRIMINAL JUSTICE BOXES SHOW THE UNIQUE RELATIONSHIP BETWEEN GENDER AND JUSTICE

Frequent boxes in the text focus on the special issues related to women in various roles throughout the criminal justice system. Fetal rights and the prosecution of pregnant defendants, rape, the discrepancy of judicial appointments between men and women, and spousal murder are among the important discussions offered in this unique feature.

International Perspectives
The Cali Cartel

T'rend guides us little about Cali, Colombia—only that it is a city of 1.3 million located 80 miles south of Bogotá that it is the sugar capital of the country and that apart from its salsa music and a few nice churches and museums, it doesn't have much to offer. They don't mention that Cali is the headquarters of what has become known as the "Cali cartel"—reputed to be the largest and wealthiest criminal organization on earth.

The Cali cartel is a loosely organized criminal enterprise involving about 15 lesser organizations that deal in drugs, murder, arms, politics, and money. Principally it stands as a central place in the international network of cocaine trafficking. Operating out of Cali and the nearby towns, the cartel purchases coca paste (an intermediate product in the transformation of coca leaves into street cocaine) in Bolivia and Peru, trans-ports it into almost pure cocaine in jungle laboratories, and transports it to the United States, Europe, Africa, and Japan by air and sea. It is estimated that the Cali cartel produces 70 percent of the cocaine reaching the United States and 90 percent of what is sold throughout the world.

The cartel's rise to prominence began at the end of the 1980s, when the Colombian government was against the larger and better known Medellín cartel. Cali cartel, notorious for its systematic brutalization and extermination of journalists, judges, political leaders and candidates, police officers, critics, and others who openly opposed to drug trafficking activities in 1992 and 1993. Colombian security forces killed or jailed most of the Medellín organization's top leaders. During the same period, the Cali group expanded its operations by search and accommodation, rather than by violence.

The members of the Cali combine a keen sense to integrate emerging technologies. Whereas the

Medellín group heavily relied on cocaine across borders in fast boats or light planes, the Cali cartel has allowed yet for safer merchant marine. The cartel derived revenues may hide its cocaine in commercial cargo. Personnel with United States customs agents checking no more than 3 percent of the U.S. ports annually, the odds are quite favorable for Cali.

The leaders of the Cali group take a percentage on shipments by the numerous smaller organizations with which they are aligned in return.



they promote cocaine as transportation, distribution channels in a community, in uniform, armed, and on call 24 hours a day, is policing. Whether officers are on foot or in cars, patrol remains basic to police work in both concept and technique.

Patrol work includes such a wide spectrum of activities that it defies any specific description. It could involve catching dogs, administering first aid, breaking up family fights, pursuing a fleeing felon, directing traffic, investigating a crime scene, calming a lost child, or writing a parking ticket. Whatever the tasks might include, the patrol force is the foundation of the police department and its largest operating unit. In both cities and towns, along highways and in rural areas, uniformed patrol personnel directly perform all the major functions of modern law enforcement.

More specifically, police patrols have five distinct functions: to protect public safety, to enforce the law, to control traffic, to conduct criminal investigations, and to interpret the law.¹⁰ In their role as protectors, patrols promote and preserve the public order, resolve conflicts, and respond to requests for defensive service. Patrol enforcement duties include both the preservation of constitutional guarantees and the enforcement of legal statutes. The night current functions of patrol involve enforcing the motor vehicle and traffic laws and handling accidents and disasters. As investigators, patrol officers on patrol conduct preliminary examinations of complaints of criminal acts, gather physical evidence, and interview witnesses. During such investigations they may also uncover evidence, identify and apprehend suspects, and recover stolen property. Finally, patrol officers have quasi-judicial functions, making the first interpretation of whether a law has been violated. It is here that the discretionary aspects of policing begin to surface. In such circumstances police may choose to take no action or to arrest, or they may only advise, instruct, or warn.

Although patrol units conduct preliminary investigations of criminal acts, most sustained investigations are assigned to a police department's detective force, which specializes in the apprehension of offenders. Detective-level policing, specifically *detective work*, includes a variety of responsibilities, all of which fall into the area of criminal investigation: (1) the identification, location, and apprehension of criminal offenders; (2) the collection and preservation of physical evidence; (3) the location and interviewing of witnesses; and (4) the recovery and return of stolen property. In addition, detective

INTERNATIONAL PERSPECTIVES BOXES OFFER A GLOBAL CONTEXT FOR UNDERSTANDING CRIME AND JUSTICE

An important way to understand and evaluate our own criminal justice system is to explore the way criminal justice works around the world. Throughout the text, Inciardi introduces boxed examples of justice in other nations and cultures. These provocative boxes illustrate diverse ways of thinking about crime and justice, and invite you to think critically about our culture and its approach to justice. The boxes include discussions of international drug trafficking, community standards of decency, police power, courts, and constitutionality, among others.

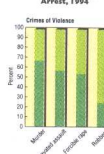
Administrative services

Auxiliary services

Patrol. A means of deploying police officers that gives them responsibility for patrolling activity in a defined area and that usually requires them to make regular circuits of that area.

The functions of police patrol

Crimes Cleared by Arrest, 1994



SOURCE: Uniform Crime Reports

The duties and responsibilities of detective

primary and most visible aspects of policing, include such activities as patrol, criminal investigation, and traffic control. Depending on the size of the agency, line services might also have specific divisions or units that focus on vice, organized crime, intelligence, and juvenile crime. There are also a variety of administrative services, which are structured to back up the efforts of the line staff and include such activities as training, personnel issues, planning and research, legal matters, community relations, and internal investigation. Auxiliary services assist the line staff in carrying out the basic police function, with specialized units assigned to communications, record keeping, data processing, temporary detention, laboratory studies, and supply and maintenance.

Patrol

For generations, the "top on the beat" has been considered the mainstay of policing. In fact, to most people, the omnipresent force of officers dispersed throughout a community, in uniform, armed, and on call 24 hours a day, is policing. Whether officers are on foot or in cars, patrol remains basic to police work in both concept and technique.

Policing city streets entails a variety of tasks. Some of these are mundane, others are somewhat routine and boring, and a few can be dangerous. Patrol work includes such a wide spectrum of activities that it defies any specific description. It could involve catching dogs, administering first aid, breaking up family fights, pursuing a fleeing felon, directing traffic, investigating a crime scene, calming a lost child, or writing a parking ticket. Whatever the tasks might include, the patrol force is the foundation of the police department and its largest operating unit. In both cities and towns, along highways and in rural areas, uniformed patrol personnel directly perform all the major functions of modern law enforcement.

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Detective Work

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EXTENSIVE MARGINALIA HELP ORGANIZE READING AND THINKING

Marginal Topic Headings make studying, review, and reference easier.

Marginal Charts and Graphs present current data in an easy-to-locate and easy-to-read format.

Marginal Glossary defines terms as they are used, and locates them for easy review later.

SUMMARY

Interpretations of the meaning of *due process* have varied throughout history. In the Middle Ages, due process merely meant adhering to the law of the land. Currently, due process of law—as guaranteed by the Fifth and Fourteenth Amendments—implies and comprehends the administration of laws that do not violate the very foundations of civil liberties. It requires in each case an evaluation based on disinterested inquiry, a balanced order of facts exactly and fairly stated, the detached consideration of conflicting claims, and a judgment mindful of reconciling the needs of continuity and change in a complex society. The concept of due process is anything but precise. It should be understood as asserting a fundamental principle of justice rather than a specific rule of law. This process can be better understood by considering it in two aspects: substantive and procedural. Substantive due process refers to the content or subject matter of a law, and protects individuals against unreasonable, arbitrary, or oppressive acts by the government. Procedural due process, on the other hand, is concerned with the notice, hearing, and other procedures that are required before the life, liberty, or property of a person may be taken by the government. The major distinction between substantive due process and procedural due process is that the former focuses on what the government is doing and the latter on how the government does it.

The criminal justice process, from investigation and arrest through trial and sentencing, is structured to guarantee due process of law at each of its many stages. Moreover, it is designed to be a system, an orderly flow of managerial decision making that begins with the investigation of a criminal offense and ends with a correctional placement. It can be argued, however, that the criminal justice process is anything but a system, that it lacks unity of purpose and organized interrelationships among its various components. The conflicting paths within the system and the disparate goals among the various players—lawyers, judges, police officers, defendants, and so on—all contribute to a "mosaic" of criminal justice.

KEY TERMS

adversary system 69	criminal justice process 79	procedural due process 78
arrest 80	due process of law 69	substantive due process 78
Barron v. Baltimore 72	Gideon v. Wainwright 72	void-for-vagueness doctrine 78
Bill of Rights 70	Grain v. Commonwealth 76	
hooking 51	inquiry system 69	
constitution 70	inquisitorial system 69	

QUESTIONS FOR DISCUSSION

1. What do you think the framers of the Constitution meant by due process of law?
2. How does due process of law differ from the law of the land?
3. What other rights and liberties do you think should have been incorporated into the Bill of Rights?
4. How do you interpret the Second Amendment?

CHAPTER END MATERIALS OFFER OPPORTUNITIES FOR STUDY AND REVIEW

Chapter Summary gives you a quick review of the basic principles of the chapter, and lets you focus on understanding one point at a time.

Key Terms help you study vocabulary and concepts presented in the chapter. These terms are shown in **boldface** when they appear in the chapter.

Discussion Questions combine factual material with controversial issues to encourage you to think critically about the chapter. These questions will help you study for essay exams, and confirm that you have a complete understanding of the chapter.

SELF-TEST

Multiple Choice

- In the _____, the court judge is impartial when between the prosecution and the defense.
 - inquiry
 - adversary
 - inquisitorial
 - ministerial
- What is generally the first phase of the criminal justice process when a crime is not directly observed by a police officer?
 - arrest
 - presentence investigation
 - presentence investigation
 - preliminary hearing
- Formal notice of the charge is given at the _____.
 - arrest
 - hearing
 - initial appearance
 - None of the above
- The accused may drop out of the criminal justice process at which of the following stages?
 - the trial
 - the initial appearance
 - the preliminary hearing
 - All of the above
- "Incorporating" the Bill of Rights refers to
 - adding them to the Constitution
 - making their provisions applicable to the states
 - testing their content before the Supreme Court
 - the process through which the state governments voluntarily add them to state constitutions

True/False

- Substantive due process refers to the application of the law.
- Standing must be before a judge at arraignment has the same result as entering a plea of guilty.
- The "right to privacy" is not specifically cited in the Bill of Rights or anywhere in the U.S. Constitution.
- It was Supreme Court Justice Benjamin Cardozo who argued the distinction between "fundamental" rights and "formal" rights.
- Bolivia's government has changed hands at least 250 times, but its constitution has remained the same since 1825.

Matching

- Warrant
- Substantive
- Pardon
- Void-for-vagueness doctrine
- Indecent
- The rule that criminal laws that are unclear or uncertain as to what or to whom they apply violate due process
- A written order authorizing arrest
- A conditional release from imprisonment that occurs only after a portion of the sentence has been served
- A formal charging document based on the grand jury's determination that there is sufficient cause for a trial
- A plea meaning "no contest" that has the same legal effect as the guilty plea

Essays

- What do you think the framers of the Constitution meant by "due process of law"?
- List and give a brief description of four Supreme Court cases whose decisions led to the incorporation of the Bill of Rights.
- What is the purpose of a grand jury?



conduct for which no consent can generally be given. Thus, the consent cannot be obtained by fraud. For example, should an auto mechanic suggest to a customer that her transmission must be fully replaced when indeed only a small bolt requires tightening, the victim's consent to have it replaced is not a legal defense. Fourth, the person giving consent must have the authority to do so. Although one party may have the right to give consent to have his or her property taken, such authority cannot be given to the property of another party.

Entrapment: The inducement of an individual to commit a crime not contemplated by him or her, undertaken for the sole purpose of instituting a criminal prosecution against the offender. Cases of entrapment occur when law enforcement officers, or civilians acting at their behest, induce a person to commit a crime that he or she would not have otherwise undertaken. Inducement is the key word in the entrapment defense and refers to the fact that the accused had no intention of committing the crime until persuaded to do so by the law officer. Should a police officer approach a group of youths and convince them to carjack an auto, and then place them under arrest after the carjacking was committed, the defense of police entrapment would be available. Similarly, in some jurisdictions, if a vice squad officer in plain clothes approaches a prostitute and offers her a sum of money for sexual favors, and then arrests her after their encounter, entrapment might be an available defense. Even though the accused is by profession a prostitute, the case could nevertheless be one of entrapment since the particular offense for which she was arrested had occurred only because of police inducement.

In recent years, the strength of the entrapment defense has been weakened by court decisions that have considered the offender's "predisposition" to committing a crime. In the 1976 case of *Hampson v. United States*,¹⁷ the Supreme Court ruled that it was not entrapment for an undercover agent to supply illicit drugs to a suspected dealer and then for another agent to act as a buyer, when there was reason to believe that the suspect was inclined, or "predisposed," to commit the crime anyway. What makes this case different from that of the prostitute is the legality of the primary behavior in question. Sexual intercourse, whether the female partner is or is not a prostitute, is generally legal behavior. What constituted the crime was her acceptance of money for the sexual act, and what constituted entrapment was the plainclothes officer's inducement of money. In contrast, *Hampson's* dealing in illicit drugs was illegal behavior, and it was not the undercover agent's inducement that made the primary act illegal. (For more on entrapment, see the Contemporary Issues in Criminal Justice essay, page 16.)

Justification: In any just cause or excuse for the commission of an act that would otherwise be a crime. The notion of justification as a defense against crime typically involves the use of force or violence in the protection of one's person or property, the lives and property of others, the prevention of crime, and the apprehension of offenders. Justifiable homicide includes those instances of death that result from legal demands—the execution of a duly condemned prisoner, the killing of a fleeing inmate by a correctional officer, includes death from accidents or misadventures that may occur during some lawful act. Self-defense or the defense of some other individual can be viewed as either a justifiable or excusable act depending on the circumstances surrounding the particular case.

Beyond these general areas, some jurisdictions have particular statutes that may extend the boundaries of justifiable cause or excuse. Until 1974, for example, a Texas law defined a justifiable homicide a husband's shooting and killing his wife's lover if he found them in the very midst of the act of adultery. The law specified, however, that the actual shooting had to occur

Entrapment: The inducement of an individual to commit a crime not contemplated by him or her.

Police Entrapment

If a cop comes up to a prostitute and engages in rape, penetration or responses to her leads, this is not entrapment.

The scenario might go something like this:

He: Hi.

She: Hi, wanna party?

He: Sure. What's the tariff, and what do you do?

She: Fifty dollars for a blow job.

This is a perfectly legitimate response for a legal arrest. The twist in this exchange would be:

He: Hi.

She: Hi. I'm willing to give you \$50 for a blow job, how about it?

He: Sure.

Because the officer initiated the action—the arrest, if made, would be illegal.

SOURCE: Former Philadelphia Police Chief Anthony B. Ricci, 1993.

Justification

Justifiable homicide includes instances of death that result from legal demands, whereas excusable homicide includes deaths from misadventure that occur during some lawful act.

SELF-TEST QUESTIONS PROVIDE A BUILT-IN STUDY GUIDE

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Visit the *Elements of Criminal Justice* web site at <http://www.harbrace.com/soc/inciardi>

We hope that you enjoy using *Elements of Criminal Justice*, and that you have found this guide to using the textbook useful. We invite your comments on this text and your suggestions for making it better. Please write:

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Fort Worth, Texas 76102

Preface

Four decades ago, the noted scholar and columnist Max Lerner offered a rather curious description of criminal justice in America:

The administration of American criminal justice has been often scored as inefficient, corrupt, and archaic, and all three charges are probably true, but again probably no truer than of past eras and other societies. The supervision of criminal justice is mainly in the hands of the local authorities; the Federal courts handle crimes under Federal jurisdiction but try to minimize the appeals from local and state jurisdictions. A lawbreaker is tracked down by local police, prosecuted by a local district attorney and defended by a local lawyer, tried in a local court house in a trial reported predominantly in the local press, convicted or cleared by a local jury, sentenced by a local judge, and shut up in a local or state prison. At every point there is a good deal of bungling, prejudice, poor judgment, or corruption. Yet on the whole there is a widespread feeling that the results are tolerably good and that the frailties of the whole process are a reflection of the frailties of the society in which it takes place.¹

Interestingly, here in the second half of the 1990s, the feelings about the criminal justice system are not too different from those expressed by Lerner back in 1957. "Criminal justice," as described by Lerner and other observers, refers to the structure, function, and decision-making processes of agencies that deal with the management and control of crime and criminal offenders—police, courts, and correctional systems. Although this definition is relatively clear, criminal justice is often confused with the academic disciplines of criminology and police science. Criminology focuses on the role of crime in organized society, the nature and causes of crime and criminal behavior, and the relationships between crime and social behavior. Police science concentrates on the pragmatic aspects of law enforcement and peacekeeping operations—the prevention and detection of crime, the apprehension of criminal offenders, the location and preservation of evidence, the questioning of suspects, the application of police resources, and the development of police/community relations.

As an independent academic activity, the study of criminal justice is comparatively new in the United States. The first degree-granting program appeared half a century ago, and as recently as the 1950s fewer than 5,000 college students were focusing on the study of crime and justice. During the past three decades, however, this situation has changed dramatically. During the middle and late 1960s interest in criminal justice education was spurred by the "war on crime" and the resulting massive federal funding for the upgrading of criminal justice personnel, agencies, technology, and programming. Currently, criminal justice courses enroll well over 200,000 students annually, and the upward trend is expected to continue.

Although criminal justice is a relatively new course, the topics have been studied for centuries. It is indeed an interdisciplinary branch of knowledge. From the perspective of legal studies, it examines aspects of criminal law and procedure; from political science it takes elements of constitutional law and appellate court practice; from the viewpoint of sociology it examines the structures of certain social institutions and how they affect the administration of justice. Criminal justice also uses research from psychology, history, public administration, anthropology, economics, and many other disciplines.

As criminal justice education has evolved and expanded, so too has research on the various processes of justice. This growth has resulted in a

¹Max Lerner, *America as a Civilization: Life and Thought in the United States Today* (New York: Simon & Schuster, 1957), p. 433.

dramatic proliferation in the criminal justice literature as scholars, researchers, and administrators seek to disseminate their work. So great has been the demand for classroom materials that during the past decade publishers have responded with thousands of new textbooks, supplementary readings, manuals, anthologies, monographs, and reports. Several dozen new introductory criminal justice textbooks and revised editions appear every year, and it is within this context of rapid change that this first edition of *Elements of Criminal Justice* has been published.

Features of the Book

Elements of Criminal Justice is designed to achieve a number of goals for introductory criminal justice courses. First, it offers basic information as to the nature of crime and the processes of justice. Second, in theme and perspective it provides an analysis of the administration of justice in its contemporary forms and historical roots. Third, the textbook is conceived and written to interest a wide range of students. Intended for those at community colleges as well as four-year institutions, the data and subject matter have been drawn from the professional and popular media and the fields of law, sociology, political science, history, popular culture, anthropology, and oral tradition. To explain certain phenomena more effectively, a portion of the almost 200 photographs and cartoons—some comical, many serious, and all informative—emphasizes the fads and foibles that have historically characterized the administration of justice in the United States.

The features of *Elements of Criminal Justice* include the following:

Accessibility and Economy: Recognizing Student Priorities

Because we know that accessibility and value are important to most students, we have presented *Elements of Criminal Justice* in a brief, paperback format. The text is a comprehensive introduction to criminal justice, yet it is half the length of many other texts. This ensures not only that reading assignments for the course will be manageable, but it also allows us to sell the book at a much lower price than many other texts.

The Most Current, Most Significant Research Is Clearly Presented for Easy Understanding

Criminal justice is a rapidly changing field. Studying the most current research and empirical data is essential. As the most recently published text, *Elements of Criminal Justice* features data from the most current sources, including 1996 statistics. The author, James A. Inciardi, is an internationally recognized researcher and scholar, who also has experience as an officer in the criminal justice system. No text more successfully combines important research with the real-world interest of personal experience.

Real-World Illustrations and Examples Capture and Hold Student Interest

A hallmark of Inciardi's many books is his use of gripping and relevant illustrations to enhance the text's discussion. Throughout *Elements of Criminal Justice* you will find photos and drawings that bring the world of criminal justice into sharper focus. In addition, cartoons placed throughout the text illustrate principles with a lighter touch. Often disturbing, frequently provocative, and always committed to an unflinching look at reality, the illustrations in *Elements of Criminal Justice* complete the picture for the student.

Contemporary Issues in Criminal Justice Boxes Focus on Current Events and Enduring Controversies

Throughout the text, you will notice boxes that focus on Contemporary Issues in Criminal Justice. These boxes present current events in the

context of the chapter's historical and theoretical concerns, and illustrate how crime and justice enter our lives every day. They include discussions of topics such as carjacking, domestic violence, prisoners and AIDS, and alternatives to incarceration.

Women and Criminal Justice Boxes Show the Unique Relationship Between Gender and Justice

Frequent boxes in the text focus on the special issues related to women in various roles throughout the criminal justice system. Fetal rights and the prosecution of pregnant defendants, rape, the discrepancy of judicial appointments between men and women, and spousal murder are among the important discussions offered in this unique feature.

International Perspectives Boxes Offer a Global Context for Understanding Crime and Justice

An important way to understand and evaluate our own criminal justice system is to explore the way criminal justice works around the world. Throughout the text, Inciardi introduces boxed examples of justice in other nations and cultures. These provocative essays and photos illustrate diverse ways of thinking about crime and justice, and invite students to think critically about our culture and its approach to justice. The boxes include discussions of international drug trafficking, community standards of decency, police power, courts, and constitutionality, among others.

Extensive Marginalia Help Organize Reading and Thinking

Marginal Topic Headings make studying, review, and reference easier.

Marginal Charts and Graphs present current data in an easy-to-locate and easy-to-read format.

Marginal Glossary defines terms as they are used, and locates them for easy review later.

Chapter End Materials Offer Opportunities for Study and Review

Chapter Summary gives students a quick review of the basic principles of the chapter, and allows them to focus on understanding one point at a time.

Key Terms help with the study of vocabulary and concepts presented in the chapter. These terms are shown in **boldface** when they appear in the chapter.

Discussion Questions combine factual material with controversial issues to encourage students to think critically about the chapter. These questions will help them study for essay exams, and confirm that they have a complete understanding of the chapter.

Self Test Questions Provide a Built-in Study Guide

Each chapter ends with a set of self test questions that help students prepare for exams and eliminate the need for buying separate and expensive supplemental texts. This rich resource includes multiple choice, true/false, matching, and essay questions that most other books put into a separate study guide.

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Ancillaries

Elements of Criminal Justice is accompanied by an integrated ancillary package designed to facilitate both learning and teaching.

1. The Instructor's Resource Guide presents a summary, topic outline, review of the major objectives and key terms, and comments and answers for many of the discussion questions in each chapter. It also has extensive, useful lecture supplements, discussion topics, class projects, and transparency masters.
2. The Test Bank contains multiple-choice, true/false, and fill-in-the-blank questions. The Test Bank is available in printed and computerized formats.
3. Computerized Test Bank and Gradebook Software are offered in IBM and Macintosh versions of the testing software, ExaMaster™. The testing software allows the instructor to create tests using few keystrokes and with all steps defined in easy-to-follow screen prompts. ExaMaster™ offers three easy-to-use options for test creation:
 - a. EasyTest lets the instructor create an entire test from a single screen in a few easy steps. Instructors can select questions from the database or, using their own parameters, let EasyTest randomly select the questions.
 - b. FullTest lets the instructor use the whole range of available options:
 - select questions as you preview them on the screen
 - edit existing questions or add your own questions
 - add or edit graphics in the MS-DOS version
 - link related questions, instructions, and graphics
 - randomly select questions from a wider range of criteria
 - create specific criteria on two open keys
 - block specific questions from random selection
 - print up to 99 different versions of the same test along with answer sheets
 - c. RequesTest is an option available to those who do not have access to a computer. When the instructor calls 1-800-447-9457, software specialists will compile the questions according to the instructor's criteria and either mail or fax the test within 48 hours.

Included with ExaMaster™ is ExamRecord, a gradebook program that allows instructors to record, curve, graph, and print out grades. ExamRecord takes raw scores and converts them into grades using the instructor's criteria. The distribution of grades can be set in a bar graph or a plotted curve.

If questions arise, the HB Software Support Hotline is available Monday through Friday 9 A.M.—4 P.M. (Central Time) at 1-800-447-9457.

4. The JusticeSYSTEM software is a unique criminal justice simulator that allows users to make decisions and see how those decisions affect the criminal justice system. Icons in the text margins show where various exercises in The JusticeSYSTEM can be used to enhance understanding of the material. The JusticeSYSTEM is available in Macintosh and Windows formats, and may be ordered using the business reply card enclosed with this book. If the card is missing, you can order The JusticeSYSTEM by calling 1-800-782-4479.

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James A. Inciardi



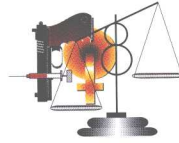
About the Author

James A. Inciardi is Director of the Center for Drug and Alcohol Studies at the University of Delaware; Professor in the Department of Sociology and Criminal Justice at Delaware; Adjunct Professor in the Department of Epidemiology and Public Health at the University of Miami School of Medicine; and a Distinguished Professor at the State University of Rio de Janeiro.

Dr. Inciardi earned his Ph.D. in sociology at New York University, and has research, clinical, field, and teaching experience in the areas of AIDS, substance abuse, and criminal justice. Before coming to Delaware, he was the Director of the National Center for the Study of Acute Drug Reactions at the University of Miami School of Medicine; Vice President of the Washington, D.C.-based Resource Planning Corporation; and Associate Director of Research at the New York State Narcotic Addiction Control Commission.

Finally, Dr. Inciardi has done extensive research and consulting work both nationally and internationally, and has published 40 books and 200 articles and chapters in the areas of substance abuse, criminology, criminal justice, history, folklore, social policy, AIDS, medicine, and law.

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