The Impact of Regulatory Law on American Criminal Justice
The Impact of Regulatory Law on American Criminal Justice

Are There Too Many Laws?

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To my wife, Mary Alice, for her support and for attending to many of the details of our daily lives. Also, to my daughters, Doris and Rose, and their children, Berke, Sasha, Heloise and Alexandra, who all bring joy to my life. Finally, in loving memory of John Del Castillo.

I would also like to dedicate this book to my mentors and longtime friends, Charles Lindner, Charles Brennan and Sydney Cooper.
Contents

Preface xv
Book Structure xvi

Part One • The Problem 3

Chapter One • Introduction 5
Law, Criminal Behavior and the Criminal Justice System 5
What is Law? 5
Kinds of Law 7
Who Enacts Law? 7
Criminal Behavior 8
The Criminal Justice System 9
The Rule of Law 10
The Crisis 10
What is the problem? 11
How did this crisis evolve? 13
Community Standards 17
The Federalism of Criminal Law 20
Societal Effects 21
Protection of Life and Property 22
Public Health 22
Rule of Law 23
Discussion Questions 24
Notes 25
Bibliography 26

Chapter Two • Prohibition 29
Introduction 29
Background 30
## CONTENTS

The Prohibition Era: Passage of the Volstead Act 32
  Prohibition Enforcement 32
  Enforcement, Politics and Corruption 36
  Organized Crime 38
Summary 40
Commentary 40
Discussion Questions 42
Notes 43
Bibliography 44

**Chapter Three • Illegal Drugs** 47
  Introduction 47
    Background 48
  War on Drugs 52
  Narcoterrorism and Transnational Organized Crime 55
Summary 56
Commentary 57
Discussion Questions 61
Notes 62
Bibliography 63

**Chapter Four • Gun and Prostitution Laws** 65
  Introduction 65
  Gun Laws 65
    History 66
  Defensive Gun Use 69
  State Comparisons of Violent Crime 70
Summary 71
Commentary 71
Prostitution 72
  Introduction 72
  Background 73
Prostitution Today 74
  Prostitution Enforcement 76
    Alternatives to Enforcement 79
Summary 79
Commentary 80
CONTENTS

Discussion Questions 81
Notes 81
Bibliography 83

Chapter Five • Vehicle and Traffic Laws 87
Introduction 87
History 87
Traffic Laws and Violations 88
Traffic Enforcement 90
Automated Enforcement 93
Scofflaws 93
Summary 93
Commentary 94
Discussion Questions 98
Notes 99
Bibliography 99

Part Two • Impact on the Criminal Justice System 101
The Criminal Justice System 102
The Criminal Justice System Flow Chart 104

Chapter Six • The Police 107
Introduction 107
The Police Role in Society 107
Law Enforcement 107
Protection of Life and Property 108
Order Maintenance 108
Crime Fighting 109
Providing Services 109
Law Enforcement: A Brief History 109
The Political Era (1850s to 1900) 110
The Reform Era 111
The Community Era 113
Attitudes Towards Regulatory Laws 114
Enforcing Regulatory Laws 115
Police Discretion 116
Enforcement Activity Quotas 117
## Chapter Seven • The Courts

### Introduction

- Historical Perspective

### The Criminal Court

- Prosecuting Attorney
- Prosecutorial Discretion
- Defense Attorney
- Judges
- The Jury
- Selection of Jurors
- The Criminal Trial
- Alternatives to Trial

### Plea Bargaining

### Summary

### Commentary

### Discussion Questions

### Notes

### Bibliography

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## Chapter Eight • Corrections

### Introduction

### History

- Colonial Period (1600s to 1790s)
- Penitentiary Period (1790s to 1860s)
- Reformatory Period (1870s-1890s)
- Progressive Period (1890s-1930s)
- Medical Period (1930s — 1960s)
- Community Period (1960s-1970s)
- Crime Control Period (1970s to Present)
CONTENTS

Contemporary Corrections 155
   Prisons and Jails 156
   Prison Gangs 158
   Infectious Diseases 159
   Probation and Parole 160
   Recidivism 161
Summary 162
Commentary 163
Discussion Questions 165
Notes 165
Bibliography 167

Part Three • Consequences for Society 171

Chapter Nine • The Social Contract and the Rule of Law 173
   Introduction 173
   The Social Contract 173
   Causes of Criminal Behavior 175
      Classical Theory 176
      Deterministic Theories 176
      Labeling Theory 177
   Criminal Justice and the Social Contract 179
   The Rule of Law 180
      Laws Based on Popular Consent 182
      A Functional Judicial System 183
      Professional Law Enforcement 184
      Does the Government Subordinate Itself to the Law? 185
      Encouraging Criminal Behavior 185
      Public Perceptions of the Criminal Justice System 186
Summary 187
Commentary 189
Discussion Questions 192
Notes 193
Bibliography 194

Chapter Ten • Race Relations 197
   Introduction 197
## CONTENTS

Background 197  
Race and Class 199  
Police Deployment 200  
Arrests for Regulatory Law Violations 201  
Racial Profiling 202  
Stop and Frisk 203  
Minority Officers 205  
Summary 206  
Commentary 207  
Discussion Questions 208  
Notes 209  
Bibliography 210

### Chapter Eleven • Societal Consequences

Introduction 213  
The Facilitation of Crime 213  
Eroding the Rule of Law 216  
Incarceration 218  
Perpetuating an Underclass 219  
Infectious Diseases 220  
Minority Relations 221  
Misdirection of Criminal Justice Resources 222  
National and Local Economy 223  
Summary 224  
Commentary 225  
Discussion Questions 226  
Notes 227  
Bibliography 228

### Chapter Twelve • Summary and Conclusions

Introduction 231  
Prohibition 233  
Illegal Drugs 233  
Gun Control 235  
Prostitution 235  
Vehicle and Traffic 236  
Police 237
CONTENTS

Courts 238
Corrections 238
Social Contract and the Rule of Law 239
Race Relations 240
Societal Consequences 240
Conclusion 241
Discussion Questions 242

Index 245
Preface

*The Impact of Regulatory Law on Criminal Justice* was written to present an overview of the systemic problems associated with the enforcement of regulatory laws. Regulatory laws are those criminal laws that prohibit socially unacceptable behavior such as the possession, sale and use of certain drugs, prostitution, gambling, traffic violations and so on.

This project began several years ago as a textbook for a 400 level seminar course in police problems. As a preliminary step, over one hundred police chiefs from across the country were asked to provide a list of about five of their most serious problems. Nearly all of the responses rated police/community relations problems highest on their lists. Those problems included racial profiling and a negative police image, particularly in minority communities.

Further examination revealed that many of the community relation problems were related to the enforcement of regulatory laws. It also became apparent that the enforcement of regulatory laws placed a heavy burden not only on the police, but also on the resources of the entire criminal justice system, resulting in a system that cannot function as it was intended. Because of over-legislation, it is argued that there are too many laws for the criminal justice system to adequately enforce and process. Law enforcement, traditionally considered an action taken by the police is also a process, one that begins with an arrest by the police and continues through the adjudication and correctional phase and ultimately ends with re-entry into society.

Because of inadequate resources, those arrested by police routinely have their charges and sentences reduced through plea negotiations, resulting in early release back into society, and more often than not, a continuation of criminal activities ending with
another arrest by police: the often-cited *revolving door of justice*. The complexities of this problem require an examination of the impact of regulatory law enforcement on the police within the context of the entire criminal justice system.

Although police acknowledge that they cannot enforce all laws, they still make more arrests than the courts can adjudicate without heavy reliance on plea negotiations. Additionally, corrections lack sufficient facilities to house all those convicted of crimes. Nevertheless, as a nation we still incarcerate a higher proportion of our population than any other country in the world.

**Book Structure**

Each chapter in the text addresses one aspect of the overall theme, beginning with background material and, where applicable, a historical timeline of events leading up to the present. The chapters end with a review and a commentary that seeks to provide additional insight into that chapter’s contribution to the book’s theme. This is followed by a list of discussion questions related to topics covered within that chapter.

Part One contains an introductory overview of the entire textbook as well as a review of some of the more familiar regulatory laws. Part Two examines the effects of regulatory law on the three major components of the criminal justice system: the police, courts and corrections. Part Three shows the impact of regulatory law on society in terms of the social contract, the rule of law, police/race relations and society in general. The final chapter provides a summary of the entire text.