

California's Criminal Justice System

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California's Criminal Justice System

Third Edition

Edited by
Christine L. Gardiner
&
Georgia Spiropoulos



CAROLINA ACADEMIC PRESS

Durham, North Carolina

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ISBN 978-1-5310-0495-8
eISBN 978-1-53100-496-5

The Library of Congress has cataloged this record under LCCN 2018000184.

CAROLINA ACADEMIC PRESS, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

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Series Note

Carolina Academic Press' state-specific criminal justice series fills a gap in the field of criminal justice education. One drawback with many current introduction to criminal justice texts is that they pertain to the essentially non-existent "American" criminal justice system and ignore the local landscape. Each state has its unique legislature, executive branch, law enforcement system, court and appellate review system, state supreme court, correctional system, and juvenile justice apparatus. Since many criminal justice students embark upon careers in their home states, they are better served by being exposed to their own states' criminal justice systems. Texts in this series are designed to be used as primary texts or as supplements to more general introductory criminal justice texts.

Preface

We are delighted to present the third edition of this book, *California's Criminal Justice System*. Much has changed since the release of the second edition. While each region in the United States is faced with its own unique issues relating to criminal justice, the policies and practices in California are perhaps some of the most well-known and dramatic applications of criminal justice policy in the United States. California has one of the largest and most expensive criminal justice systems in the nation. A significant proportion of tax dollars are used to keep an estimated 128,000 people incarcerated in state prisons¹ and 75,000 in county jails² annually. Indeed, our projected state budget for 2017–2018 proposes over 16 billion dollars to be spent on criminal justice and court programs.³ California's criminal justice system employs more than 210,000 individuals⁴—the majority of whom (118,000) work in law enforcement. In fact, California has more cops than any other state in the country.⁵

The way California has “done criminal justice” in the last 40 years has changed dramatically. While California was a leader in implementing the “tough on crime” ideology in the 1980s and 1990s, recent decades demonstrate a public and government that are coming to terms with the high costs of this strategy. The most notable “get-tough” policy in California, and perhaps one of the most well-known applications of a habitual offender law in the United States, was the three-strikes law. Enacted in 1994, it contributed to an increase in the state prison population to the point that California was successfully sued by inmates and ordered by the U.S. Supreme Court to reduce its prison population

1. http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Projections/S17Pub.pdf

2. <http://www.bscc.ca.gov/downloads/4Q15%20JPS%20Full%20Report%206.24.16.pdf>

3. <http://www.lao.ca.gov/Publications/report/3539>

4. http://www.cdcr.ca.gov/News/docs/2011_Annual_Report_FINAL.pdf and http://www.ppic.org/main/publication_show.asp?i=1081

5. http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-u.s.-2012/tables/77tabledatadecpdf/table_77_full_time_law_enforcement_employess_by_state_2012.xls

(*Plata & Coleman v. Schwarzenegger*). In direct response, AB109 (Realignment) was enacted in 2011; it drastically changed the landscape of California's criminal justice system and successfully reduced the prison population.

California voters approved a number of initiatives aimed at reducing the quantity of people caught in the state's punitive policies even before the historic Realignment legislation. In particular, voters recognized that California's drug laws have also played a significant role in the massive growth of the state prison population. In 1996, for example, voters approved the use of medical marijuana (Proposition 215); they also voted to divert first-time drug offenders to treatment in 2000 (Proposition 36) and to legalize the recreational use of marijuana in 2016 (Proposition 64). Even our legislature felt comfortable reducing penalties for drug offenses, as evidenced by the passage of SB 1449 in 2010 (it made marijuana possession an infraction rather than a misdemeanor).

The easing of solely punitive policy not only applies to drug offenders; voters also approved legislation that limited the use of the three-strikes law in 2012 (also Proposition 36), reclassified low-level property and drug crimes from felonies to misdemeanors in 2014 (Proposition 47), and increased the use of parole for non-violent offenders and eliminated direct file of juveniles to adult court in 2016 (Proposition 57). Still, not all of California's criminal justice policies have been affected by the recent trend, as the state has some of the stiffest gang enhancements and the largest death row population in the nation.

The purpose of this book is to introduce the reader to California's criminal justice system in a comprehensive way. This book introduces the reader to California criminal justice by examining the state's crime rates, laws, legal structures, policing, courts, corrections, and other important areas. In addition, we highlight some of the unique policies and procedures that are distinctive to California and provide examples that have influenced the state's criminal justice system. Historically, California has been at the center of many key developments in criminal justice practices. Recent years have shown continued innovation in the face of change in terms of how the state does criminal justice. Indeed, a review of the issues facing California in this book can serve as an example for other states when they confront similar issues in criminal justice administration.

Organization and Contents of the Book

The book is divided into thirteen chapters that virtually cover the entirety of California's criminal justice system. Each chapter begins with learning objectives, an introduction to the issues, and a presentation of the basic themes

of the subject. The chapter concludes with a discussion of the critical issues facing California's criminal justice system in the twenty-first century.

The first chapter presents the volume and characteristics of crime in California. It includes a discussion of the different data sources that are used to obtain crime rates and provides a comparison of crime both by time and geographic region.

Chapter 2 acquaints readers with the demographics of crime in California. Specifically, the first section examines the over-representation of racial and ethnic minorities in California's criminal justice system. The second section describes women's involvement in crime and the criminal justice system. Finally, the chapter concludes with a discussion of immigration and how immigrants are uniquely involved in California's criminal justice system.

The third chapter focuses on lawmaking practices in California. Beginning with a discussion of our federal and state constitutions, this section highlights how laws related to criminal justice issues are created as part of the legislative process. In particular, California has an unusual direct democracy model that has immediate, and substantial, implications for the criminal justice system.

Chapter 4 focuses on the twenty-nine different legal codes that make up the laws of the criminal justice system in California. These legal codes include the Penal Code, which highlights the definitions of criminal activities (for example, what distinguishes the charge of second-degree murder from the charge of manslaughter) as well as the punishments proscribed under the law. This chapter also highlights other legal codes that have an impact on criminal justice operations, such as the welfare and institutions code.

Chapter 5 introduces policing in California. The section begins with a discussion of the history of law enforcement in California and the significant contributions that our state agencies have made on the practice of policing both within the state and nationwide. The section then turns to a discussion of the organization of law enforcement, beginning with municipal agencies and the differing roles and responsibilities of county sheriffs' departments, up to the state-wide jurisdiction of the California Highway Patrol and the California Attorney General's Office. Finally, the chapter concludes with discussions of professionalization and training and ethics.

The sixth chapter focuses on the structure and functions of the California courts system. Beginning with a discussion of the organization of the courts by jurisdiction and general duties (Superior Court, Appellate Court, and the California State Supreme Court), this section continues with an introduction to the different actors within the courts system, ranging from the judges and prosecutors to defense attorneys and juries. The section concludes with a discussion of the use of specialty courts and reforms to the court system.

The seventh chapter highlights correctional policies and practices in California's criminal justice system. This chapter is organized into three broad sections. The first section presents a general examination of each key component of the correctional system. This begins with a discussion of regional correctional systems: county jails and the use of community corrections, such as probation, which allow offenders to remain in their communities while under the supervision of criminal justice agents. Next, the chapter presents a general review of the structure and organization of California's state prison system, followed by parole supervision and community reentry. The second section of the chapter examines the historical context of the growth in California corrections, including a review of changing sentencing practices and increasing prison populations. Finally, the third section of this chapter presents a detailed chronology of contemporary prison litigation and subsequent reform efforts. This consists of a close examination of the implementation and consequences of correctional Realignment, including a discussion of the reallocation of correctional populations across different correctional subsystems.

Chapter 8 highlights the application of the death penalty in California. Beginning with a discussion on the history of capital punishment, this chapter outlines the current practices related to the death penalty in the state. While California has the largest death row population, the number of modern-day executions is few. This chapter examines the practice of the death penalty and highlights why we carry out so few death sentences. The section concludes with a discussion of current issues related to the death penalty, such as the fiscal concerns of maintaining the death penalty and legal challenges to the execution process here in the state.

Chapter 9 focuses on the juvenile justice system in California. It begins with a brief history of juvenile justice and the implications of various policies on the state juvenile populations at different points in history. It describes juvenile crime, why juveniles commit crime, the juvenile court process, and juvenile corrections and chronicles the events that led to the adoption of distinct policies for juveniles, as well as describes the newest policies that are intended to reduce the number of juveniles in state institutions. It concludes with a discussion of California's use of evidence-based programs in juvenile justice.

The tenth chapter discusses California gangs. The chapter begins with a historical review on the emergence of the different gangs in California, both in the community as well as within the state's penitentiary system. The chapter then turns to a discussion on the prevention, intervention, and rehabilitation of gang members and highlights some of the unique programs and practices used by communities and the criminal justice system to address issues of gang violence.

The eleventh chapter introduces readers to important crime policies from a California perspective. The chapter starts with an introduction to gun policy in California and explains how our policies differ from federal policies. The second part of this chapter details the extent of drug crimes in California and then describes California drug policies, compares them to federal drug laws, and puts them into context with the rest of the United States. The final section of this chapter describes a wide variety of sex crime laws in California.

Chapter 12 highlights victim's rights and victim services in California. The chapter begins by presenting the evolution of the victims' rights movement. The chapter then provides a current description of the resources for victims of crime, such as rape crisis organizations and domestic violence shelters. Last, the chapter turns to a discussion of restorative justice practices within the state.

Chapter 13 concludes the book with a discussion of employment trends in criminal justice. Here, students will learn about the requirements for jobs in policing, courts, and corrections and how to apply for these positions. In addition, students will learn about the average salaries for these jobs (and how they compare to similar positions throughout the United States) as well as the projected growth for these fields.

Our hope is readers of this book gain a comprehensive understanding of California criminal justice after completing the book. As you will soon learn, California's criminal justice system is an important and dynamic system in the state that plays a significant role in the lives of its residents and serves as a unique model for criminal justice in the United States.

New in the Third Edition

- A new, easily accessible table that serves as a guide to California's most significant policies.
- Learning objectives added to each chapter.
- Updated information and statistics in every chapter.
- Updated policy changes passed by voters in November 2016 in every relevant chapter.
- Completely new chapter on corrections.

California Criminal Justice Time Line 1822–2017¹

1822	End of Spanish Rule in California. Mexican control begins.
1836	1st vigilance committee formed in “Pueblo de Los Angeles”
1846	1st jury summoned by Walter Colton, first American alcalde, in Monterey
1848	Gold discovered at Sutter’s Mill. Treaty of Guadalupe Hidalgo signed—Mexico cedes California to U.S.
1849	San Francisco Police Department 1st in state, Sacramento & San Jose PDs also formed. 1st CA constitution ratified. 1st state election (H. Burnett elected 1st Governor, Edward J.C. Kewen elected 1st attorney general, C.S. Hastings elected 1st Chief Justice of State Supreme Court).
1850	California granted statehood and admitted as 31st state. 20 sheriff’s departments formed. 1st county election held in San Francisco.
1851	1st state prison, a ship named “Waban” opens. New CA law makes robbery & grand larceny punishable by imprisonment or death. 1st San Francisco Vigilance Committee formed.
1852	1st prison built on land, San Quentin, is founded.
1853	Legislature approves formation of California Rangers to track down Joaquin Murrieta.
1859	San Francisco Industrial School, the 1st house of refuge for juveniles in California, opened.
1872	Penal code becomes law.
1874	Construction begins on Folsom prison. When it opened in 1880 it was one of the first maximum security prisons in the nation
1879	California constitution of 1879 approved. State Board of Prison Directors established. Private prison industries abolished.
1884	Wells Fargo created its own investigative division (313 stagecoach robberies in prior 14 years)
1891	1st state-run juvenile institution opened in Whittier. State assumes responsibility for executions.

1. Adapted, with permission, from the California Department of Justice, Criminal Justice Statistics Center’s “California Criminal Justice Time Line 1822–2000” which can be found at: <http://oag.ca.gov/sites/all/files/pdfs/cjsc/glance/tl4pg.pdf>

California Criminal Justice Time Line 1822–2017 (*continued*)

1893	1st parole law enacted.
1903	Law enables counties to establish juvenile courts. 1st probation programs in the state
1905	CA State Bureau of Criminal Identification created to maintain records on wanted persons and those in custody.
1909	Law requires counties to maintain separate juvenile detention facilities.
1910	Alice Stebbins Wells becomes the 1st police woman (with arrest powers) in CA.
1911	Law provides that no intoxicated person shall drive.
1914	Los Angeles County creates Office of the Public Defender—1st of its kind in U.S. Walton J. Wood becomes 1st public defender. U.S. Congress passed Harrison Act.
1916	August Vollmer develops 1st formal, academic law enforcement program at UC Berkeley.
1917	California adopts indeterminate sentencing system.
1920	Volstead Act (Prohibition) takes effect.
1926	1st female judge, Georgia P. Bullock, elected to Los Angeles Municipal Court.
1927	Division of Narcotic Enforcement created as part of State Board of Pharmacy.
1929	California Highway Patrol created.
1930	Bureau of Criminal Identification & Information (CII) created & begins collecting data. State Teachers College at San Jose (now SJSU) is 1st in nation to offer an A.A. degree in police training.
1931	CA becomes 1st state to establish statewide reporting system to provide crime data. Act regulating sale, possession, transportation of machine guns approved. CA legislature establishes Board of Prison Terms and Paroles.
1933	21st Amendment to U.S. Constitution repeals Volstead Act (Prohibition)
1935	Comprehensive Motor Vehicle Act distinguishes between drunk driving causing injury or death and all other types; also increases penalties for recidivism.

California Criminal Justice Time Line 1822–2017 (*continued*)

1938	1st lethal gas execution carried out in California.
1941	California Youth Authority created; 1st woman executed in San Quentin's gas chamber.
1942	Last official hanging occurs in California.
1944	Prison Reorganization Act restructures CA's penal system. State Departments of Justice and Corrections created.
1945	Bureau of Criminal Statistics (now Criminal Justice Statistics Center) formed to collect criminal justice data.
1959	CA established statewide standards for police officers & created 1st POST in nation.
1965	California establishes victims' compensation fund, 1st in nation to do so.
1969	California Legislature enacts "Use a gun, go to prison" statute.
1971	Keldgord Report calls for restructuring of corrections in California, with emphasis on community-based alternatives.
1972	Death penalty ruled unconstitutional by California Supreme Court.
1974	Public vote results in reinstatement of death penalty in California.
1976	Law decriminalizes marijuana (<1oz = misdemeanor). California invokes determinate sentencing. Death penalty again ruled unconstitutional.
1977	Death penalty reinstated.
1981	Law provides mandatory minimum penalties for drunk driving convictions.
1982	California voters approve Proposition 8, the "Victims' Bill of Rights."
1985	CA DOJ's Automated Fingerprint Identification System (AFIS) becomes operational (identifies Richard Ramirez as the "Night Stalker" serial killer).
1990	Coleman v. Wilson lawsuit filed by inmates alleging mental health violations in prisons. 1st boot camp in California opens for juveniles in Los Angeles County. Blue Ribbon Commission recommends expanded use of punishment options, particularly community based alternatives, in response to prison overcrowding. Crime Control Act of 1990 passed by Congress prohibiting importation & manufacture of semi-automatic weapons and establishing gun-free school zones.

California Criminal Justice Time Line 1822–2017 (*continued*)

1991	1st California drug court established in Alameda County.
1992	Jury acquits 4 LAPD officers in beating of Rodney King—results in 6 days of rioting, 54 deaths, 2,383 injuries, 13,000 arrests, and \$700 million in property damage.
1994	CA's "Three strikes and You're Out" law signed into law. President Clinton signs Violent Crime Control and Law Enforcement Act of 1994 (including 1st Violence Against Women Act). Congress passes Brady Handgun Violence Prevention Act (CA law exceeds standards). Executions by lethal gas ruled unconstitutional by State.
1995	California State Police merge into California Highway Patrol. U.S. District Judge holds in <i>Madrid v. Gomez</i> that inadequacies in the mental and medical health care system, a pervasive pattern of excessive force against inmates, and the inclusion of seriously mentally ill inmates in security housing units at Pelican Bay State Prison violates the 8th Amendment.
1996	California voters approve Proposition 215, "Medical Use of Marijuana initiative." President Clinton signs "Megan's Law."
1997	Restorative Justice Program funded in Santa Clara County.
1998	CA voters passed Proposition 220, unifying municipal & superior courts in state. CA's Little Hoover Commission finds inadequate space in county jails & state prisons. CA DOJ implements Applicant LiveScan (allowing electronic submission of fingerprints and automated background checks). FBI announces the National DNA Index System (NDIS).
1999	1st mental health courts established in California Scandal erupts when former police officer Rafael Perez alleges widespread corruption in LAPD's CRASH Anti-Gang Unit housed at Rampart Station.
2000	USDOJ "consent decree," signed by Los Angeles mayor, calls for reforms and the appointment of a federal monitor in response to "Rampart Scandal." Voters approve Proposition 21, "Juvenile Crime Initiative," requiring more juveniles to be tried in adult court. Voters approve Proposition 36, "Substance Abuse and Crime Prevention Act of 2000," allowing certain drug offenders to receive treatment in lieu of jail. FBI creates the Internet Fraud Complaint Center to deal with new internet crimes.

California Criminal Justice Time Line 1822–2017 (*continued*)

2001	Plata v. Davis lawsuit filed by state inmates alleging constitutionally inadequate medical care in prisons
2003	Farrell v. Cate lawsuit filed alleging CYA failed to deliver state-mandated rehabilitation.
2005	California Department of Corrections (CDC) becomes California Department of Corrections and Rehabilitation (CDCR). California Youth Authority (CYA) closes and becomes the Division of Juvenile Justice within the newly reorganized CDCR.
2006	President Bush signs Violence Against Women Act of 2005. Executions halted in CA due to legal challenges surrounding lethal injection protocol.
2007	SB81 passed limiting juvenile offenders in state institutions to the most serious.
2008	California Legislature passed Marsy's Law, the Victims' Bill of Rights Act.
2009	Plata & Coleman v. Schwarzenegger Three Judge Panel requires prison reduction.
2010	SB 1449 reduced marijuana possession from a misdemeanor to an infraction.
2011	U.S. Supreme Court rules, in <i>Brown v. Plata</i> , that overcrowded prisons violate inmates 8th Amendment Rights. Governor Brown signs Criminal Justice Realignment legislation (AB109).
2012	Voters approve Proposition 36, changing the state's "three strikes law."
2013	LAPD no longer under the authority of a federal monitor.
2014	Voters passed Proposition 47 reducing some felonies to misdemeanors.
2016	Judge terminated Farrell lawsuit, finding CA had implemented most requirements to reform DJJ. Voters passed Proposition 57 eliminating direct file of juveniles to adult court and revamping parole rules, Proposition 63 extending background checks to ammunition and banning large-capacity magazines, Proposition 64 making recreational marijuana use legal, and Proposition 66 streamlining death penalty cases.
2017	Governor Brown signed criminal and juvenile justice reform legislation, including SB 395 which requires children under 16 to consult with an attorney before waiving their Miranda rights. He also signed SB 54 limiting local law enforcement officers' ability to enforce federal immigration laws.

Guide to Key California Criminal Justice Policies

Policy	Name	Effective Date	Summary	Chapter
AB971 (Proposition 184)	The Three Strikes and You're Out Law	1994	Significantly increased prison sentences for violent and serious offenders convicted of felonies.	7
Proposition 215	Medical Use of Marijuana Initiative (Compassionate Use Act)	1996	Allows patients and certain medical caregivers to possess and cultivate marijuana for medical treatment as recommended by a physician.	11
Proposition 21	Treatment of Juvenile Offenders	2000	Increased correctional penalties and reduced confidentiality for juveniles committing certain types of violent and sex crimes; reduced minimum transfer age to 14 for criminal court and introduced direct file of juveniles to adult court.	9, 10
Proposition 36 (2000)	Substance Abuse and Crime Prevention Act of 2000	2001	Allowed certain defendants convicted of non-violent drug possession offenses to receive probation instead of incarceration.	11

Policy	Name	Effective Date	Summary	Chapter
Proposition 63	Income Tax Increase for Mental Health Services	2005	Levies an additional 1% tax on millionaires to fund mental health services; requires counties to provide wrap-around services for at-risk offenders.	9
SB81	Juvenile Justice Realignment Bill	2007	Required states to transfer all non-violent juvenile offenders to county facilities and increased funding for the Governor's Gang Reduction and Prevention Program (CalGRIP).	9
Proposition 9	Marsy's Law (California's Victim's Bill of Rights)	2008	Expanded the legal rights of victims and restitution. It included 17 enumerated rights in the judicial process.	12
SB 1449	Marijuana: Possession	2010	Reduced possession of marijuana for personal use from a misdemeanor to an infraction.	9, 11
AB109/AB117	Public Safety Realignment	2011	Suspended counties from transferring non-serious, non-violent, and non-sexual offenders to the state prison system.	1, 7
Proposition 36 (2012)	Three Strikes Law. Repeat Felony Offenders. Penalties. Initiative Statute.	2012	Revised three-strikes law, particularly with regard to the imposition of life sentences.	7

Policy	Name	Effective Date	Summary	Chapter
Proposition 47	Reduced Penalties for Some Crimes Initiative	2014	Reclassified non-serious and non-violent drug and property crimes from felonies to misdemeanors.	1, 7
Proposition 57	Parole for Non-Violent Criminals and Juvenile Court Trial Requirements	2016	Increased parole and good behavior opportunities for non-violent felons and eliminated direct file of juveniles to adult court.	7, 9
Proposition 63	Background Checks for Ammunition Purchases and Large-Capacity Ammunition Magazine Ban Initiative	2016	Requires individuals and businesses to obtain licenses to purchase and sell ammunition. It also limited the exemptions to the large-capacity magazine ban.	11
Proposition 64	Marijuana Legalization Initiative	2016	Legalizes the recreational use of marijuana for individuals over age 18, levies its tax, and sets up parameters for its legal sale.	11
Proposition 66	Death Penalty Procedures Initiative	2016	Changes and streamlines the procedures governing state court appeals and petitions that challenge death penalty convictions and sentences.	8

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