

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

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

Are There Too Many Laws?

SECOND EDITION

Vincent Del Castillo

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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 my son John Del Castillo.

This book is also dedicated to my mentors and longtime friends, Charles Lindner, Charles Brennan and Sydney Cooper.

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Preface to the Second Edition

The Impact of Regulatory Criminal Law on Criminal Justice was originally written to present an overview of the systemic problems associated with the enforcement of regulatory criminal laws. Regulatory criminal 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 Second Edition provides updated data as well as a review of recent trends in legalization of marijuana and its relationship to other forms of drug legalization.

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 rooted in the enforcement of regulatory criminal laws. It also became apparent that the enforcement of those 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 criminal 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 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, an introduction into American criminal justice as well as a review of some of the more familiar regulatory criminal laws. Part Two examines the effects of regulatory criminal law on the three major components of the criminal justice system: the police, courts and corrections. Part Three shows the impact of regulatory criminal law on society in terms of police/race relations and society in general. The final chapter provides a summary of the entire text.

Vincent Del Castillo
June 14, 2019