

Policies, Processes, and Decisions of the Criminal Justice System

by Julie Horney, Ruth Peterson, Doris MacKenzie,
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This volume examines issues related to decisionmaking in criminal justice. We began with the idea of producing a volume that would examine “changes in decisionmaking and discretion in the criminal justice system.” However, we quickly recognized that such a focus suggests a far too narrow, traditional view of decisionmaking, in which criminal justice officials make choices about processing individuals through various sanctioning stages—arrest, charging, sentencing, and parole release. Criminal justice decisionmaking at the turn of the century must be viewed in a broader context of policies and emerging processes. This volume, *Policies, Processes, and Decisions of the Criminal Justice System*, emphasizes this broader perspective. In this introduction, we provide a brief overview of the individual chapters and point to overriding themes that emerge from them.

Policies are the result of numerous decisions. These decisions are often made by actors outside the criminal justice system, and although they are not directed at individuals, they define the parameters within which decisions about individuals must be made. One of the most important policy shifts of the past quarter century is the dramatic increase in the use of incarceration. This shift does not represent a unitary policy enacted by any single statute or administrative regulation; rather, it is a result of numerous decisions made at many levels. Its impact has been dramatic, both within and outside the criminal justice system. In chapter 1, “Prison Use and Social Control,” James P. Lynch and William J. Sabol raise critical questions about what the high rates of incarceration have

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meant for U.S. communities. Whereas traditional evaluations have examined the impact of crime control policies on communities in terms of crime rates, Lynch and Sabol assess the impact of removing a significant portion of young males from a community on that area's processes of informal social control. In so doing, they also ask about the policy's impact on future generations.

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Policies set outside of the criminal justice system also can have major impacts on the system and its processes. In chapter 2, "Changing the Contours of the Criminal Justice System To Meet the Needs of Persons With Serious Mental Illness," Arthur J. Lurigio and James A. Swartz illustrate this principle by examining such a policy: the deinstitutionalization of mental patients. The authors suggest that the

boundaries between the criminal justice system and the mental health system have become blurred. They explore the implications of these blurred boundaries, suggesting how decisionmakers at several levels will need to respond to mentally ill persons caught up in criminal justice processes.

The processes of criminal justice are shaped by system policies and provide the immediate context in which decisions are made about individuals. Two chapters in this volume examine the correctional process, but they focus on very different aspects. In chapter 3, "Assessing Correctional Rehabilitation: Policy, Practice, and Prospects," Francis T. Cullen and Paul Gendreau address the central goals of the correctional process. Today, as Lynch and Sabol demonstrate dramatically, the criminal justice system relies more heavily than ever on incarceration of offenders. Concurrent with the shift toward higher incarceration rates has been a shift away from rehabilitative efforts. Cullen and Gendreau look at the historical roots of these changes, ask whether they have been justified, and assess what is currently known about treatment effectiveness. Their work suggests a rethinking of correctional goals in the next century.

In chapter 4, "The Evolution of Decisionmaking Among Prison Executives, 1975–2000," Kevin N. Wright focuses on the decisionmakers who have been called on to implement changing correctional policy. Examining criminal justice decisionmaking at the organizational level rather than at the level of individual offenders, he asks how the roles of prison officials have changed as a result of policy shifts and cultural changes of the past quarter century. He also discusses what qualities will be needed in these leaders in the coming years.

In contrast to our increasing reliance on incarceration, this country also has seen the emergence of a movement to adopt "community justice" and "restorative justice" approaches in dealing with crime and delinquency. In chapter 5,

“Community Justice and a Vision of Collective Efficacy: The Case of Restorative Conferencing,” Gordon Bazemore offers a look at one increasingly popular application that could have a dramatic impact on the criminal justice system in the 21st century. Restorative conferencing seeks to deprofessionalize criminal justice decisionmaking regarding sanctioning, rehabilitation, and community reintegration of offenders. Bazemore’s attempt to link microlevel and macro-level theories of intervention offers a new framework for understanding, and possibly improving, criminal justice decisionmaking.

Police processes are examined in chapter 6, “Community Policing in America: Changing the Nature, Structure, and Function of the Police,” by Jack R. Greene. Greene assesses how police processes have been affected by a major shift in the conceptualization of policing: the shift to community and problem-oriented policing. He provides an analysis of the historical roots, assumptions, and promises of this paradigm, while comparing traditional, community, problem-oriented, and zero-tolerance models in terms of a host of distinguishing variables. In particular, Greene examines how the implementation of these philosophies are expected to change the structure and function of policing.

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Police decisions are also a focus of chapter 7. In “Criminal Justice and the IT Revolution,” Terence Dunworth asks how new developments in information technology might change how a range of day-to-day criminal justice system decisions are made. Although it concentrates on police decisions, Dunworth’s chapter addresses issues that are relevant throughout the criminal justice system as he describes the gap between the promise of information technology and the reality of day-to-day practice. Dunworth addresses the organizational, interorganizational, and work culture-based obstacles to effective use of new technologies. He also describes unintended and sometimes destructive consequences that may accompany their adoption.

The traditional view of criminal justice decisionmaking as the processing of individuals through the system is best represented in “Thirty Years of Sentencing Reform: The Quest for a Racially Neutral Sentencing Process,” by Cassia C. Spohn. Probably the largest body of research on criminal justice decisions has been in the sentencing area. In chapter 8, Spohn provides us with a critical review of sentencing studies, bringing us up to date on what is known about the role of race in sentencing. The past quarter century has seen numerous efforts to control discretion in sentencing; at the century’s end, Spohn asks what progress has been made and how such progress should be measured.

In the final chapter, “The Convergence of Race, Ethnicity, Gender, and Class on Court Decisionmaking: Looking Toward the 21st Century,” Marjorie S. Zatz addresses similar issues regarding decisionmaking and also explores the roles of gender, class, and ethnicity and their intersections. She draws our attention to a broader array of decisionmakers and decision points by considering arrest and prosecution stages in addition to sentencing. Zatz also raises important but usually neglected policy- and research-related issues regarding the very basic process of categorizing individuals by race. Throughout the essay, she provokes readers to think not just about the meaning of race but also about what she terms racialized, gendered, and classed policies and how these are expressed in processing individuals in different decisionmaking contexts (e.g., drug and gang wars and transfer of juveniles).

Cross-Cutting Themes

These chapters offer a broad, and we believe rich, set of perspectives on policies, processes, and decisions of criminal justice for a number of levels of decision-making. Several important themes emerge from these chapters that cut across levels.

Minorities and criminal justice

An “old” theme that is perhaps more critical than ever is the question of how minorities are affected by policies, processes, and decisions of the criminal justice system. In light of the importance of this issue, two chapters focus explicitly on minorities. Both the Spohn and Zatz chapters address the more traditional question of how race, ethnicity, class, and gender influence decisions about individuals being processed through the criminal justice system. Both chapters raise important questions about how researchers study these decisions and about what criteria should be used to judge their fairness. Zatz reminds us that in considering solutions, we must confront the issue of “dual frustration”—the fact that “both crime and crime control fall disproportionately on poor blacks and Latinos.”

Although not the central focus of other chapters, issues concerning minorities, especially poor minorities, arise in several of them and point to questions that should be researched in coming years. Dunworth’s chapter suggests particularly important questions about how new developments in information technology might change how race influences criminal justice decisions. The poignancy of this question is well illustrated when we also consider Zatz’ discussion. She points out that police department lists of suspected gang members consist largely of minority youths. If technological advances lead to such lists being

more widely used and shared with other agencies, then any racial bias involved in creating those lists will be magnified many times. Alternatively, of course, the general effects of technology may be such that when more information is available, decision-makers will be less likely to rely on race (and other status characteristics) in making their decisions.

At the policy level, as opposed to the individual decisionmaking level, Lynch and Sabol make explicit how incarceration policies of recent years have had their major impact on young black males, and their chapter asks how those policies are affecting the social structure of poor minority communities. While Lynch and Sabol focus on the communities from which young minority males are removed, Cullen and Gendreau lead us to consider the implications for incarcerated individuals. In examining the “new penology,” which focuses on assessment of danger and crime control instead of the rehabilitation of individuals, they emphasize that the large segments of the minority community who are imprisoned are unlikely to receive treatment while locked up or to receive help during the reentry process.

In addressing treatment effectiveness, Cullen and Gendreau raise the question of whether treatment programs work equally well for persons of different racial, ethnic, or class backgrounds. Whether gender-specific programs are required is also an important question. Analogous issues arise at different levels. Bazemore’s chapter on community justice encourages us to think about whether restorative justice programs work equally well across communities that differ in racial makeup and socioeconomic status. Greene’s discussion of community policing evokes similar questions. The papers in this volume do not necessarily answer the questions raised about minorities and justice decisions; they suggest, however, that doing so will be critical in the new century.

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The role of communities

The position and functions of communities is another theme that emerges in the chapters in this volume. Lynch and Sabol indicate that communities are affected by criminal justice policies; other chapters also consider how communities can influence criminal justice policies, processes, and decisions. Bazemore reviews efforts to develop community-centered responses to youth crime as alternatives to expanded justice system surveillance and incapacitation. These efforts suggest a dual place for communities: (1) in decisionmaking, and (2) in

furthering the goal of reintegration of troubled youths into the community. Similarly, Cullen and Gendreau report on the effectiveness of a program that keeps juvenile delinquents in the community, where they benefit from an extensive array of programs designed to help them with family, school, employment, and leisure activities. Along different lines, Lurigio and Swartz show how the management and treatment decisions for those suffering serious mental illness is a community problem that has landed on the doorsteps of the criminal justice system—a system that is not well equipped to handle the problem.

Finally, Greene examines the role of communities in “community policing,” noting that one of the central promises of this model is to strengthen the capacity of communities to resist crime and social disorder. Community building and collective efficacy are believed possible if empowered and analytically skilled police officers work more closely with empowered community residents to solve neighborhood problems and engage in mutual education. Greater effectiveness in addressing crime-related problems is the expected long-run payoff for police willingness to “share power” regarding policy decisions and tactical priorities with the community (and with other municipal service providers and organizations committed to solving neighborhood problems). As Greene notes, however, the obstacles to greater community involvement and stronger partnerships are substantial, both inside and outside the police bureaucracy.

A Final Note

We are certain you will find many additional overlapping themes as you read the chapters in this volume. The ones we have pointed to are undoubtedly central to many criminal justice issues, but they also illustrate ways that specific concerns unite these chapters. More generally, this volume treats criminal justice decision-making in broad terms and is thereby able to shed light on a number of traditional processing issues as well as on issues not generally addressed in volumes that focus on legal decisionmaking. Some of the questions addressed have a long history in criminal justice research (e.g., sentencing). Others are new and result from recent changes in the environmental and organizational context of criminal justice (e.g., the impact of new information technology). However, there is no suggestion of simple answers to the questions raised; all aspects of criminal justice policies, processes, and decisions are complex. Our authors do not purport to provide all the answers. Rather, they give attention to important questions and concerns and offer their works to set the stage for future theoretical, empirical, and practical examination of the issues raised. Collectively, these contributions help us to understand criminal justice decisions more fully, and they point us in directions for more fruitful exploration of the topics during the 21st century.