

***Criminal Justice Theory***

***Explaining the Nature and Behavior of Criminal Justice***

***Second edition***

Edited by Edward R. Maguire and David E. Duffee

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## PREFACE

The seeds for the first edition of this volume were planted when Professor Bob Langworthy served as the program chair for the 1996 meeting of the Academy of Criminal Justice Sciences in Boston under President Ed Latessa. Bob Langworthy and Ed Latessa asked David Duffee if he would give the plenary address at the meeting on the topic of theory in criminal justice education. Duffee accepted and took an empirical approach to the issue, surveying all criminal justice doctoral programs with the assistance of Ed Maguire and Jeff Snipes. What they discovered was alarming to them. While the doctoral programs all had courses on criminological theory — often required — these programs basically ignored theory building and testing and types of theories about criminal justice. When asked to submit a syllabus for the most relevant theory course, many programs submitted a criminology syllabus. These syllabi usually provided little or no coverage of theories that explained criminal justice behavior, focusing primarily instead on explanations of crime. For the respondents, the word “theory” was synonymous with *criminological theory*.

The discoveries resulting from that survey were the motivation for this book. Just as crime can be studied scientifically, so too can criminal justice. But explicit attention to theory is a crucial ingredient in the scientific development of the field. There is no genuine science and no effective knowledge-building without theory.

To the average undergraduate college student, the title of this book, *Criminal Justice Theory*, may represent a clash of themes. For most students, the first two words of the title, *Criminal Justice*, constitute an interesting and exciting topic. Criminal justice programs in colleges and universities are growing, often at the expense of enrollments in other disciplines. Studying “bad guys” and the system that processes them seems much more interesting to many students than studying traditional academic disciplines. But the third word in the title, *Theory*, often evokes the opposite reaction among students. Theories are frequently contrasted with “reality,” as if theory is somehow the opposite, or the antithesis, of what happens in the real world.

The idea that these two themes — criminal justice and theory — might for some people represent such divergent perspectives is what sparked our interest in assembling the first edition of this book. Theory is a fundamental tool in the social scientist’s toolkit. Theories play a central role in all social sciences, from economics and political science, to sociology and psychology. Yet, criminal justice, as a discipline, seems to have struggled with establishing a solid theoretical foundation. One reason may be that the field is so applied; so tightly intertwined with an audience of practitioners who work, or have worked, in “the real world.” The field’s practical orientation may have resulted in less tolerance for theory even though most practitioners tend to operate based on an implicit theory or set of assumptions that guides their decisions and working styles.

The idea of theory versus practice is really a false dichotomy since the two can inform and enrich one another. Explicit attention to theory can help us understand how the social world works. It can help us understand why some interventions work, why some fail, and why some might produce unintended, or perhaps even harmful, consequences. At the same time, careful attention to practice can stimulate theory development, expose weaknesses in flawed or incomplete theories, and help anchor theories in the reality of the social world.

Underlying all social policies and programs is some implicit theory of human behavior, whether in the form of individual or collective behavior. For instance, most research shows that hiring more police officers is not the antidote for crime that the public and most police think it is. The assumptions about police behavior and crime that underlie this popular remedy are based on inadequate theories. Criminology, a sister discipline to criminal justice, is full of examples of how well-intentioned programs meant to reduce crime sometimes not only fail to work, but occasionally may even *increase* crime. These unintended consequences are not simply the result of individual stupidity, human error, or laziness: they occur because the underlying theories about the causes of crime on which the programs are based are faulty. As Kurt Lewin once wrote, "There is nothing so practical as a good theory."<sup>1</sup> We agree, and that is why we chose to develop this volume.

Criminal justice theory is defined by Duffee and Allan (2007) as "explanations of the variations in responses to crime.... Criminal justice theory seeks to explain and examine variations in, and the causes of, aspects of government social control systems, which select the criminal sanction over other forms of social control and shape the nature of the criminal sanction to be employed." In chapter 2, Snipes and Maguire define criminal justice theory as "the study of the official response to behavior that may be labeled criminal" In chapter 1, Duffee emphasizes that the idea of "responses to crime" in criminal justice theory should be conceived very broadly to encompass a wide range of social phenomena. All of these authors make it clear that criminal justice theory would include the basic decisions about whether and when to use the criminal sanction. Consequently, criminal justice theory includes the basic decision about whether to use punishment as a control and whether to consider people blameworthy for harmful acts.

This book is intended to advance the study of criminal justice by focusing on the role of theory in enhancing the discipline. It is meant for advanced undergraduate students as well as graduate students in criminal justice. The book presupposes that the student has had a basic course in research methods and is familiar with terms such as independent variable, dependent variable, and cause and effect. We have urged our authors to write using a language and tone that is appropriate for this audience. For those students who struggle with the challenging terminology and concepts used in this volume, we have included a series of discussion questions and exercises at the end of each section introduction. These can be used by instructors in the classroom as learning aids, assigned by instructors for homework, or used by individual students to study on their own at home.

We also introduce each section with brief overviews that introduce key points in each chapter and connect the chapters to each other and to the different phases of the theory building and testing process. These introductions should help readers identify the various aspects of the theory development process that are represented in each part of the book. Each of these sections focuses on substantive theories about some aspect of criminal justice phenomena. Part I deals with criminal justice in general, Part II examines police, Part III examines courts, and Part IV examines corrections.

We recognize that not every important criminal justice phenomenon is represented in this collection, but we doubt that any single collection could do so. Our authors did a good job of covering micro-level and macro-level behaviors in police, courts, corrections, and system-wide contexts while simultaneously relying on different methodological approaches and different aspects of theory development. This idea of blending a substantive focus on a particular type of social behavior with solid theory and methodology is the great challenge of doing social science research well.

This volume is more than a textbook because in it we advocate a new method for thinking about scholarship in criminal justice. We urge our colleagues in colleges and universities around the world to present to their students more than simple descriptions or philosophical debates about criminal justice. We encourage them to think more and more about the *science* of criminal justice. This means thinking theoretically about a variety of issues. Why do police behave the way they do? How can we alter the behavior of prosecutors if we wish to do so? What factors explain how the innocent are convicted, or even worse, executed? Why do some agencies generate more complaints or lawsuits than others? These are the types of compelling and very real questions that criminal justice theory seeks to answer.

In thinking about the future of criminal justice theory, many questions remain unanswered. What are its central questions? In what areas does research contribute to knowledge about criminal justice? In what areas are there major research gaps? In what ways might theories of criminal justice play a role in filling these gaps and enhancing practice? Using this volume in upper level undergraduate courses and graduate courses in the administration of criminal justice will enable instructors to expose the science of criminal justice to their students.

This volume, like others, was not born in a vacuum. Theoretical perspectives on criminal justice have played a central role for many years at the School of Criminal Justice at the University at Albany. While still a graduate student at Albany in the early 1990s, Ed Maguire had the benefit of learning these perspectives from a number of esteemed scholars including David Bayley, David Duffee, Graeme Newman, and Rob and Alissa Worden. As a longtime faculty member as well as a former graduate student and dean at the school, Duffee was particularly influenced by some of the founding faculty of the school, Vincent O'Leary, Hans Toch, and the late Donald Newman and Leslie Wilkins. While each was quite different in his or her interests and approaches to criminal justice, all were equally devoted to the scientific study of criminal justice. We thank all of those who paved the intellectual path on which this volume rests. We owe a special thanks to the School of Criminal Justice at the University at Albany for its longstanding intellectual devotion to the ideas espoused in this volume.

We want to thank the chapter authors who contributed to this second edition of the volume. They run the gamut from an advanced Ph.D. student to highly accomplished leaders in their field of study. Some worked on short notice to prepare or revise drafts of their chapters. We thank all of them for their fine contributions. We are also grateful to Betty Fernandes for her assistance in assembling the manuscript for the second edition.

We would also like to thank the many instructors who were kind enough to share their reactions to the first edition and provide us with recommendations on how this second edition might be made more useful as a primary or supplementary text for their undergraduate and graduate courses. Based on their helpful feedback, we made number of changes, including reorganizing the book, revising and updating several chapters, and removing others. We also added four chapters (3, 6, 9, and 11) to the second edition. We hope this edition will be more useful to instructors in preparing the next generation of students to think carefully about what criminal justice theory is, why it is important, and how it might be further developed. We also hope this edition will help communicate these same themes more effectively to our colleagues interested in incorporating criminal justice theory into their own work.

Finally, we also want to acknowledge our intellectual debt to Bob Langworthy, whose 1996 request set this volume in motion.

We look forward to the readers' reactions.

Edward R. Maguire

David E. Duffee

#### NOTE

1. Lewin, K. *Field Theory in Social Science; Selected Theoretical Papers*, ed. D. Cartwright. (New York: Harper & Row, 1951).

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