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## DIRECTIONS FOR THEORY AND THEORIZING IN CRIMINAL JUSTICE

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### INTRODUCTION

This volume brings together a broad collection of theory and research in criminal justice. Throughout, the guiding theme is the understanding of criminal justice phenomena in multiple sectors and at multiple levels by using a scientific approach to the study of criminal justice. In other words, the work in this volume pays explicit attention to the development and testing of scientific theory as a means of understanding criminal justice.

### THE IMPORTANCE OF CRIMINAL JUSTICE THEORY

Understanding criminal justice behavior is important. Criminal justice is one of the most pervasive and expensive forms of government social control. As commitments to mental health systems and public welfare have been reduced, the governments' relative reliance on criminal justice for social control has increased. Criminal justice is also the primary example of coercive political power. Political decisions about what values to protect, what behavior to criminalize, and how (and how much) to punish criminal behavior are fundamental political decisions that define the nature of society. Understanding criminal justice behavior is just as important, although quite different from, understanding criminal behavior.

If we are to understand criminal justice scientifically, then we need to be guided by theory. Explicit theory is the sine qua non of scientific investigation, far more critical than the precision of measurement or the methods of analysis. Absent theory, there is no science; no way to avoid raw empiricism followed by pure speculation about what the data “might mean.” Such speculation inevitably draws upon and is colored by the analyst’s personal, cultural, and political values, traditions, and interests, no matter how well intended or carefully crafted such speculations might be (Bernard and Ritti 1990).

Theory is often inappropriately mystified by scientists and denigrated by nonscientists. Theory is often contrasted with real-world pragmatism and objective facts in a misleading way. When one of the authors began his academic career in 1971, it was common to hear both students and many faculty contrast what is “supposed to happen in theory” with “what actually happens in the real world.” Students more than thirty years later are still apt to contrast “what the books say” with “what really happens.” While theory and facts are not the same, this is not to say the theories are not concerned with facts. Theories that do not help us understand how and why one pattern of facts occurs rather than another are not scientific theories. When students or faculty talk about “what should happen in theory,” they most likely mean what ought to happen according to some moral or political theory, not what is likely to happen according to some scientific theory.

Scientific theory is a very practical activity. In Kurt Lewin’s popular phrase, there is nothing so practical as a good (accurate) theory. One can think of scientific theory as informed (by prior research) and logical (sensible, plausible, and noncontradictory) “guesses” or explicitly stated expectations about how, why, and under what conditions something happens that is worth knowing about. The human and artistic part of science is in the decision about what is worth knowing. What facts do we attend to? The scientific part lies in establishing and maintaining an approach to answering the what, how, why, when, and where without letting the preinvestigatory human interests that initiated the study get in the way of the facts. While theory is used to control emotional or self-interested biases in scientific investigation, theory does not hold all facts equal. Theory focuses our attention toward some facts and away from others. It helps us sort out from the infinite array of factors that could influence behavior, those that are most worth testing against logical standards and empirical evidence. If we agree that we need to understand scientifically the causes of criminal justice behavior, then a theory is the most important tool in the shed — but no more

than a tool. If it works, we proceed. If it does not, we toss it out and find another theory to guide the work.

## CHALLENGES OF CRIMINAL JUSTICE THEORY DEVELOPMENT

In many scientific fields, theory is relatively well developed. As a consequence, the work of many contemporary scientists is mostly in testing, refining, replicating, and comparing theories. This is often called the work of “normal science” (Kuhn 1970). This is less the case in the social than in the physical sciences. Indeed, there are arguments that social science is not science but art (DiCristina 1995), or perhaps politics. Certainly the strength of arguments about the applicability of science to social facts varies from one social sector to another. For example, the theories and methods on which Eric Lambert drew for his study of Federal Bureau of Prison employees in chapter 9 are far more developed, refined, and tested than the institutional theory of corrections, which McGarrell and Duffee attempted to test in chapter 10. Scientists examining job satisfaction, job commitment, and turnover rely on vast libraries of theoretical work, measurement advances, and prior empirical studies of causal connections. In contrast, persons seeking to be scientific about how punitive a society is, or how much a people values punishment, are faced with the tasks of expressing theoretical concepts and relationships, developing measures, and conducting tests all at the same time. As we have argued in this volume, criminal justice as a social science is “pretheoretical” or perhaps “prototheoretical” — or whatever term the reader would prefer to connote the infancy of theoretically guided criminal justice research, or the science of criminal justice.

As we seek to develop the science of criminal justice, there are a variety of challenges to be met. A number of these have been documented throughout this volume, perhaps most notably in chapters 1, 2, and 4. A number of these challenges are not scientific ones. Chapter 1 argues that criminological and criminal justice research is often intertwined to the detriment of criminal justice science. Certainly crime and justice are connected and studies of each will inform the other. As Duffee and Allan argue in chapter 1, criminal justice is often treated as an independent variable helping us to understand crime but rarely as a dependent variable to be understood. This is not to say that the effects of criminal justice are unimportant or uninteresting. But even if our long-term concern were reducing crime, we would have to be able to determine if criminal justice policies, programs, and activities can be influenced so

that they have more efficacious effects on crime. Hence there is a pressing need to study criminal justice phenomena as the dependent variable.

Independent of, but complementary to, the above argument is the one which Castellano and Gould put forward in chapter 4. In their view, criminal justice scholars should pay more attention to understanding the quality and level of justice in a society rather than focusing so heavily on levels of crime. One of the defining aspects of societies is whether in a given society there are other values beyond order and safety to be pursued in the conduct of social control (also see Moore 2002).

Snipes and Maguire mention another common problem with criminal justice theory in chapter 2. There are many instances of criminal justice theory that are not scientific theory. By its very nature, the field of criminal justice is of concern to philosophers and moralists. What is the rationale for punishment? What kinds of punishments are appropriate, fair, civilized? Many of these statements of moral positions are called “theories” of criminal justice. There is nothing wrong with such work, but it is not scientific theory.

Somewhat different from the above challenges and confusions is overcoming the antiscience, or “everybody knows” approach to criminal justice. Duffee and Allan (chapter 1) and Castellano and Gould (chapter 4) bring up this problem in different ways, most notably, perhaps, in their arguments that scientific criminal justice theory often lags behind because its development is potentially threatening to important political interests, including the elites of the criminal justice system itself. To think of the contrast between the support for science in criminal justice and the support for science in other fields, consider for a moment the likelihood that a politician would claim that he knew how to get to the moon without scientific knowledge. It is quite unlikely. It is perhaps even more unlikely that such a person would actually ride in the vehicle that he designed without scientific know-how. But the same politicians reject the need for scientific knowledge about criminal justice every day. Such people usually begin with a statement that “everyone knows” (or that common sense tells us) what kind of punishment is effective. Recently, this general claim has usually come in the form of politicians claiming that their get-tough crime policies are responsible for the notable drop in crime. While we do not wish to belabor this point, which may be apparent to some of our readers, the belief that criminal justice policies can be made without science is perhaps the most deleterious stumbling block in the path of developing criminal justice science. Since most of the nonscientific beliefs about criminal justice rest on some claim to reducing crime, any criminal justice science that

examines other factors affecting such beliefs is potentially threatening to the holder of those beliefs.

Another challenge to criminal justice theory, and a more scientific one, is the reliance on other social science disciplines for the beginnings of criminal justice theory. Many criminal justice concepts and potential relationships emerge from political science, sociology, psychology, economics, management science, and so on, whether we are dealing with individual actors, organizations, or larger systems and contexts. Not only is there nothing wrong with such borrowing, but it is also one of the facets of criminal justice science that can make it so intriguing and interesting. In addition, it is a way to speed development in a new science.

For instance, organizational theorists have relied on institutional theory for many years to explain the behaviors of many kinds of organizations, from corporations to hospitals and schools. In chapter 6, Renauer borrowed propositions from institutional theory to explain variation in urban community policing practices. The multidisciplinary foundations of criminal justice provide numerous avenues for tapping into existing knowledge from other fields.

However, the interdisciplinary and multidisciplinary bases of criminal justice pose a number of potential challenges. The traditional academic employment structure might inhibit orderly progress in theory development. Imagine an economist, a sociologist, and a psychologist all working independently on the same theoretical question. Based on their background, interests, and training, they might approach the same problem from very different angles. While this could be a potential strength, it could also be a liability if they talk past one another and fail to reach any kind of theoretical integration. An example of this state of affairs is organizational studies. Australian sociologist Lex Donaldson (1995) has argued that organizational studies is enmeshed in a series of “paradigm wars” that are inhibiting the growth of the discipline and rendering it irrelevant to those who seek real answers about how organizations work. Donaldson blames the American academic establishment for failing to provide incentives for cooperating and integrating across perspectives. Academics from different disciplines might also publish their work in different journals that do not have wide exposure in criminal justice; they might present their research findings at different professional meetings; and they might rely on very different research methods that are well-accepted within their disciplines but not in others.

Second, researchers who are trained in criminal justice rather than one of the major source disciplines may not be educated in or fully informed about all the traditions, conventions, and findings in the

fields from which they borrow concepts and theories. As a result, key elements of a theory may remain unstated or unexamined or underlying assumptions may not be fully appreciated. For example, a doctoral student of one of the authors once sought to devise a theory of criminal justice agency cooperation with citizens using a theory from social welfare organization that had been developed to explain tokenism. As used in this example, tokenism means involving citizens in organizational decision-making processes as a symbolic gesture, with no intention of actually incorporating their input (Arnstein 1969). This student had not been sufficiently versed in the social welfare research tradition that saw interorganizational cooperation as a means of reducing and controlling citizen input rather than increasing it. This research study was eventually reframed successfully, but it got off to a rocky start on the basis of borrowing from another research tradition that pulled one aspect of a relevant but distant theory out of context. Borrowing concepts and theoretical insights from many fields provides constant threat of misuse of the borrowed work (but, of course, also offers the potential benefit of new applications of prior work).

Other related problems involve the confusing plethora of definitions for the same term across disciplines and, vice versa, the not infrequent use of different terms across disciplines to mean the same thing. It can take a very experienced researcher, and often, a well-functioning team of researchers, to recognize and appreciate such distinctions.

One of the best examples of these kinds of problems concerns the term *community*, which has recently become of major importance to both criminal justice theory and practice. To the first author of this chapter, thirty years ago the term *community* simply meant the “public” who might have opinions about corrections or seek to support it at some level (O’Leary and Duffee 1971; Duffee 1974). When Duffee arrived at Pennsylvania State University to teach in a Division of Community Development, his colleagues, who were community development experts, dismissed this work as ignorant of community — and rightly so from their point of view. To them what O’Leary and Duffee had been talking about was something like “the polity” or the “public” but certainly not distinct, geographically defined communities.

Today, we can see the same confusion in relation to community policing, community prosecution, community courts, and more generally community justice. What criminal justice policy makers mean by this term is highly varied and generally not very programmatic in its implications. Instead it is a flag waving, justificatory term with which programs gain approval rather than substance. Indeed, one of the most intriguing (and negative) accounts of community policing

focused scientifically on precisely that rhetorical use of the term *community*. Lyons (1999) couches the politics of community policing as a struggle between central government and neighborhoods for the power to define what community will mean and the kind of social control it will entail.

But there is also a great deal of variation in the use of the term as a scientific construct. Community can be and has been defined as cultures, interest groups, enclaves, polities, cities, neighborhoods, and other social entities. This variation is frustrating and potentially useful. But to gain more use and less frustration, criminal justice scientists must have considerable knowledge about other disciplines (or open access to consultants with expertise in these fields) to make good use of concepts, theories, and research from diverse fields.

### THE STATE OF CRIMINAL JUSTICE THEORY

What do the preceding chapters say about the state of criminal justice theory? Let us begin with a brief review.

In chapter 1, “Criminal Justice, Criminology, and Criminal Justice Theory,” Duffee and Allan propose that criminal justice theory is underdeveloped. They do *not* argue that it is missing. Quite the contrary, they indicate that there are many high quality scientific studies of criminal justice phenomena in the literature and that such work is impossible without theory. But they do argue that explicit attention to criminal justice theory lags behind theory development in other fields. Duffee and Allan propose that both criminology and criminal justice would be strengthened if crime and criminal justice scholars recognized explicitly the need to be scientific about both explaining crime and explaining criminal justice.

In chapter 2, “Foundations of Criminal Justice Theory,” Snipes and Maguire begin by discussing the shortcomings of criminal justice theory, tracing the brief history of its foundations, and settling on a loose conception of its domain. Their broad definition states that criminal justice theory is *the study of the official response to behavior that may be labeled criminal*. They criticize current theory by arguing that much of what is labeled criminal justice theory is either not adequate *theory* or does not really belong to *criminal justice*. Most notably, they carve out a distinction between ideologies, criminological theory, and criminal justice theory. They then propose four tests that can be used to determine whether a theory falls within the domain of criminal justice theory. The essential nature of these tests is (1) that the dependent variable must be related to the official response to potentially criminal behavior;

(2) that the deviance could reasonably have been labeled criminal, if it was not; (3) that the response is related in some way to official criminal justice policies, structures, or practices; and (4) that the theory conform to basic standards for constructing social science theories. Students may find it useful to apply these four tests to the theories presented in this volume.

In chapter 3, "Durkheim's Comparative Method and Criminal Justice Theory," Howard and Freilich issue a challenge to criminal justice theorists: to develop, refine, test, and elaborate criminal justice theory using the comparative method. In general terms, the comparative method is a methodological approach in which the analyst compares social collectivities (such as organizations, states, or nations). Howard and Freilich focus specifically on comparing nations, though they suggest that units of analysis in comparative research can vary. As an illustration, they show how Feeley's (1979) organizational theory of the courts can be tested and elaborated using the comparative method. The world is full of interesting and meaningful international variations in criminal justice. Why do courts in some nations sentence offenders to corporal or capital punishment, while others decry such methods? Why are police in some nations more gentle and accommodating, while police in other nations are brutal and corrupt? Why are there such massive international variations in the use of imprisonment? These questions are all within the purview of criminal justice theory, and all can be studied using the comparative method. As globalization continues to increase, the need for theories of criminal justice to account for international variation will grow.

In chapter 4, "Neglect of Justice in Criminal Justice Theory: Causes, Consequences and Alternatives," Thomas Castellano and Jon Gould echo Duffee and Allan's concerns about the overemphasis on explaining crime. They then go on to examine the conceptual footing for criminal justice theories that seek to explain justice rather than other outcomes with a stronger linkage to crime. As they point out, the concerns for justice in society can be as important politically, and for the quality of life that people lead, as concerns for crime. Ignoring complaints about injustice are as perilous to social order as ignoring complaints about crime. Even among those readers who are not convinced by Castellano's and Gould's arguments about the moral need to study the delivery of justice, there exist numerous other reasons. For example, as Mastrofski (2001) writes, police chiefs do not often lose their jobs because there is too much crime. Yet the ceremonial dethroning of the police chief during a scandal involving corruption, brutality, or racism is commonplace. Scientifically, there is no greater

difficulty (although certainly no less) in measuring the nature or level of justice adhering in a particular criminal justice system or process as in measuring the level of crime that might ensue. Coming up with scientific theories of justice could send criminal justice researchers off in new and exciting directions.

In chapter 5, "Explaining Police Organizations," Maguire and Uchida survey the landscape of theory and research on police organizations. The chapter begins by demonstrating that police departments are different from one another in many ways: in structures, policies, processes, and outputs. For example, some arrest offenders aggressively while others may rely on different, less formal methods for achieving compliance with the law. A large body of research has developed to explain these variations. Maguire and Uchida review this research, showing how these approaches contribute to a theoretical understanding of variations in police organization. Among the values of such a theoretical review is their discovery, which might otherwise remain hidden, that most theories of police organizations are of the "contingency" variety of organizational theory. While this is not necessarily problematic, it should alert theoreticians interested in policing that a huge variety of other kinds of organizational theory have not been adequately tapped, applied, or developed.

In chapter 6, "Understanding Variety in Urban Community Policing," Brian Renauer provides us with one example of a scholar seeking to build a new theory to explain emergent phenomena in police organization. His starting point is the large and even contradictory variety in the structures and activities that urban police departments adopt as "community policing." Recognizing that police organizations are important legal, political, and cultural institutions, Renauer utilizes the institutional theory of public organizations, initially developed to explain behavior of public utilities (Selznick 1966) and public education (Meyer and Rowan 1977; Weick 1976). He proposes that some of the forces affecting choices of community policing rhetoric, organizational location, and programs are local and some are nonlocal. The nature of community policing could be predicted by knowing the power and trajectory of the relevant forces in the department itself, in the city, and in the city's and the department's transactions with nonlocal powers such as the U.S. Department of Justice.

In chapter 7, "Assessing Blameworthiness and Assigning Punishment: Theoretical Perspectives on Judicial Decision Making," Paula Kautt and Cassia Spohn provide a framework for summarizing, assessing, and integrating theories about individual decision making in criminal justice. They illustrate the promise of this framework with

theory and research about judicial sentencing decisions. Explicit attention to the horizontal or domain characteristics (such as demographic variables vs. belief and attitude variables at the individual level) and the vertical or social level characteristics of independent variables (such as individual vs. organizational forces) allows researchers to determine what kinds of explanations for decisions have been explored and which have been ignored. Doing so permits them to design new theory and new research in a systematic way. It also provides for clues about possible combinations or integration across sectors and levels that could make our explanations of decision makers more complete. For example, are judges with one set of values and beliefs more or less likely than others to act on those personal beliefs, and are those tendencies affected by the community or organization in which the judge is situated?

In "Courts and Communities: Toward a Theoretical Synthesis," chapter 8, Alissa Pollitz Worden illustrates yet a different approach to theoretical review and comparison, and concern for a different unit of analysis. While Kautt and Spohn were developing a framework for explaining individual decision outcomes by individual judges, Worden is concerned with the larger (or higher) social levels in the Kautt and Spohn vertical chain: courts and communities. Worden's review illustrates the importance of getting concepts properly defined. Some researchers conceive of the prosecutor, defense attorney, and judge meeting in the court as itself a community. Since Warren (1978) long ago argued that communities are largely and increasingly networks of organizations, this view of courts-as-community is not trivial or accidental, even if it is not what others might mean by community. Frameworks for systematically reviewing theory assist in identifying potential conceptual conflicts and assist in turning them into creative opportunities. Additionally, Worden seeks to devise a framework that will work in two directions: enabling us to see the potential effects of courts on communities, and vice versa, the potential effects of communities on courts. It would be useful to ask whether investigations in both directions still meet Snipes and Maguire's "official response test." While community impacts on courts presumably affect official response to crime and therefore meet this test, do court impacts on community also meet this test? Can we think of community differences in criminal justice as connected to the official response to crime? We will return to this issue below, as we talk about unit of analysis as one means of developing criminal justice theory.

Eric Lambert's "A Test of a Turnover Intent Model: The Issue of Correctional Staff Satisfaction and Commitment" (chapter 9) provides the first empirical test of theory presented in this volume. Lambert

examines both the causes and effects of job satisfaction among corrections workers. Working in an area of management and human resources research that is rich in theory development, measurement, and research, Lambert borrows available theory to examine whether it holds in the arguably odd or unusual case of corrections. The patterns that have been often substantiated in private industry also appear to apply in work such as corrections. Worker job satisfaction is more affected by management practice than by worker characteristics. Similar in unit of analysis to the Kautt and Spohn work, Lambert examines individual worker attitudes and decisions. As Worden suggests in chapter 8, these individual level attitudes are, in this case like many others, strongly influenced by levels of explanation above the individual level (in this case, characteristics of the correctional organization).

In chapter 10, "Examining Correctional Resources," Edmund McGarrell and David Duffee seek to explain variations in financial support for corrections. Like Renauer, they draw on institutional theory. While institutional theory has often been more concerned with legitimacy of public organizations than with fiscal resources, the authors reason that greater legitimacy should result in a greater share of tax dollars and greater level of tax dollars per citizen. While the test of institutional theory conducted here is generally supportive of institutional theory, the test is a weak one in the sense that the authors have to assume, rather than directly measure, the underlying processes that would lead to the results that they achieve. The findings also suggest that some facets of the institutional environment are more powerful than are others. In this instance, racial or cultural heterogeneity appears more powerful than professions, unions, or bureaucracy in determining the relative strength of corrections as a public sector investment.

## THE DIMENSIONS OF THEORY

In chapter 2, Snipes and Maguire proposed several theoretical themes as potentially useful in thinking about and developing criminal justice theory. We review these themes briefly here, in the order in which they appeared in chapter 2.

### *Historical vs. Nonhistorical Perspective*

Theories vary in their attention to history, or developments over time. One can think such changes both with individuals (such as changing attitudes while at work, as in chapter 9) and with larger constructs such as politics (such as changing the value placed on punishment as the composition of society changes, as in chapter 10). Renauer's theory of

community policing probably implies development over time within a city, as a police department reacts incrementally to a mix of local and nonlocal forces. Some of the theories that Kautt and Spohn review (chapter 7) imply changes in judicial decisions as judges age, gain experience, change their attitudes, and so on. In general, however, one should note that while some of the theories discussed in this work are clearly historical or developmental, most of the studies reviewed and the two empirical tests provided are not historical, but are single-point-in-time, cross-sectional studies.

Clearly, stronger science will emerge when historical data are available with which to test longitudinal theories. This need, however, is difficult to fulfill. As criminal justice systems have become more technologically advanced, data about them have become more plentiful and sometimes more accurate. This means that longitudinal data series on criminal justice phenomena may not collect the same data, or may collect data measured in *different (even if improved) ways, over time*. One problem with historical theories, then, is that there is often disparate quality to the data that would allow us to test them over time for aggregates (like cities, states, or nations). For instance, Maguire and Schulte-Murray (2001) found that many of the nations submitting data to the United Nations on the number of police employees used erratic definitions of what constitutes a “police officer” over time. Maguire and Schulte-Murray’s graphs of the number of police officers in several nations showed large peaks and valleys from year to year, when in fact police employment changed only gradually. Testing historical theories of police employment using such data would paint a wholly inaccurate picture.

If one is concerned with changes in individuals, it may be easier to design a study to track individuals over time. Longitudinal studies of delinquents and offenders are commonplace in criminology. Similar studies of criminal justice officials lag behind.

#### *Organizational Perspective*

Snipes and Maguire suggest that three main organizational perspectives are most relevant (or at least most prevalent) in relation to criminal justice theory: the rational-goal perspective, the functional systems perspective, and the institutional perspective. It is likely that many other versions of organizational theory will eventually creep into the mix of explanations for criminal justice behavior. Of the three perspectives discussed in chapter 2, arguably this volume has provided greater coverage of and more examples of the latter two than the first. Does this mean rational-goal perspectives are less common? We doubt it. In fact,

the opposite is likely to be the case, and one of the main complaints of authors of this volume. The rational-goal perspective often focuses on effectiveness and assumes that reduction in crime is the principal criterion of effectiveness. There are severe limits to the logic of such theories, as discussed by both Snipes and Maguire and Castellano and Gould, including some questions about their status as scientific theories. Nevertheless, they have probably generated the most research in criminal justice. Functional systems perspectives and institutional perspectives need much more attention before we begin to reap real benefits from their potential guidance.

#### *Sociopolitical Perspective*

Snipes and Maguire pose the fundamental differences in sociopolitical perspective as the difference between consensus and conflict approaches to criminal justice. Hagan (1989b) and more recently Bernard and Engel (2001) have suggested that this dichotomy in political perspective is overly simplistic and limited in its explanatory value. We suspect these authors are correct. Thinking of criminal justice as resting on only a conflict among groups or consensus among groups seems less than accurate about most complex societies. While the chapters in this volume do not focus only, or often, on the sociopolitical dimension, they do appear to suggest that consensus and conflict may be operating at different levels in the same place and time. For example, there may be more political consensus about how individual criminal justice officials should behave in a system than there is consensus across groups or political interests about basic criminal justice policies.

#### *Objective vs. Subjective Perspective*

Recall from chapter 2 that objective theories view social artifacts (such as crime rates) as reflecting reality, while subjective theories treat such artifacts as socially constructed. For subjectivists, reality is in the eye of the beholder. Sullivan (1994) argued that the subjective perspective was limiting the growth of criminal justice theory because it relied more heavily on distinguishing different individual beliefs and attitudes than on examining objective differences among larger units of analysis such as organizations and criminal justice systems. While this volume finds many roadblocks in the path of theory development, it does not portray overreliance on individual subjective experience as one of them. Indeed, most of the works reviewed and presented here would seem to fall on the objective side of the objective/subjective dimension (with the possible exception of Lambert’s study and some of the individual

attitudinal studies reviewed by Kautt and Spohn). Both the objective and subjective perspectives might be meaningfully integrated to expand our understanding of criminal justice phenomena. We will provide two hypothetical examples to show how this might be done, one from the world of policing, and the other from corrections.

First, when police chiefs think about their departments' performance, they often rely on a series of "objective" indicators such as crime rates, use of force incidents, and citizen complaints. These indicators all have their place within a comprehensive performance evaluation scheme. However, police agencies are much less likely to rely on multiple sources of subjective data about their performance. They sometimes survey citizens, though they often do not ask the right questions. They rarely survey arrestees, crime victims, or officers about the department's performance. Combining official data and subjective survey data from multiple populations is one way of collecting multidimensional data on police performance (Maguire 2003).

Second, students of organizational theory and public administration often wrestle with the term *bureaucratization*. The term is intellectually empty because it combines multiple dimensions of organizational life in a fuzzy way (Langworthy 1986; Maguire 2003). At the same time, it has mass appeal because we can all recall with some degree of misery the problems and hassles we have experienced in dealing with government agencies, whether local, state, or federal. Therefore, though we have intellectual concerns about the validity of the concept, it still makes for a good example to illustrate the difference between objective and subjective approaches. Bureaucratization has been measured in many ways over the years, but some of the most popular "objective" measures are the number of written rules and policies within the organization, the number of people who must sign off on a particular decision, the number of standard operating procedures, or the number of separate forms that must be filled out to accomplish a particular set of tasks. At the same time, we might also think of bureaucratization as having a strongly subjective component. Even if an organization has mountains of red tape, if the worker and the client do not view it as bureaucratic, is it? If objective and subjective measures of bureaucratization are not closely aligned, then theories of bureaucratization should also account for the subjective experiences of those who must deal with the organization, namely its workers and its clients.

### *Type of Response or Nature of the Dependent Variable*

The nature of the dependent variable is another way of distinguishing between criminal justice theories. It is closely tied with the unit of analysis. Frequently, for instance, when the unit of analysis is the individual, the dependent variable is some measure of attitudes or behaviors that varies across individuals. When the unit of analysis is the organization, the dependent variable is some feature that varies across organizations.

Sometimes the dependent variable will be a traditional criminal justice response that involves overt behavior on the part of criminal justice personnel: examples include the use of force, arrest, citation, charging, sentencing, or releasing. Sometimes it may just be an attitude or a value. Is the police officer cynical? Does the correctional officer have high job satisfaction? Other times the dependent variable will not be an individual attitude or behavior, but rather a context within which these attitudes and behaviors operate. Examples include policies, operating standards, organizational cultures, and organizational structures. For instance, Robert Langworthy (1986) examined the effect of various political and social factors on the organizational structures of police organizations. This dependent variable passes the reasonableness test outlined by Snipes and Maguire in chapter 2 because police organizations presumably structure themselves to deal with crime, as well as other issues.

Another way of thinking about the dependent variable is to identify the unit of analysis. All theories strive to make inferences about some entity — that entity is the unit of analysis. Alternately, it is the level at which the dependent variable is measured. In chapter 9, for instance, Lambert describes a theory of correctional officer job satisfaction. The unit of analysis in this case is correctional officers, or more generally, individuals. In chapter 10, McGarrell and Duffee outline a theory of correctional spending which they then test at the state level; therefore states are the unit of analysis.

Units of analysis can sometimes get complex when units are nested within other units. For instance, suppose we develop a theory to explain police officers' behavior in urban neighborhoods. We then test the theory using data collected by observing officers in multiple neighborhoods. If the theory seeks to explain variation in the behavior of individual officers, then the unit of analysis is individuals. If the theory seeks to explain patterns of police behavior in different neighborhoods, then the unit of analysis is neighborhoods. An example of this nesting occurs in chapter 7, in which Kautt and Spohn seek to explain judicial decision making. Typically, we are not interested in comparing



individual judges, but in the decisions they make in criminal cases. Thus the criminal case is the unit of analysis, and to test the theory properly, one would need to observe or collect data from multiple criminal cases across multiple judges in multiple courts.

#### *Level of Explanation or Nature of the Independent Variable*

Closely tied with the unit of analysis is the level of explanation, or the level at which the independent variables are measured. In many theories, the unit of analysis and the level of explanation are the same. For instance, if we develop a theory in which we attribute the punitive behavior of judges to their political attitudes, both the independent variable (attitudes) and the dependent variable (behavior) are measured at the individual level. Sometimes, however, the independent variables are measured at multiple levels. For an example, we need to look no further than chapter 7, in which Kautt and Spohn attempt to explain variation in judicial decision making. They claim that a “vertically integrated theory” is one that incorporates “influences from two or more hierarchical levels.” Among the explanatory or independent variables they discuss are case characteristics, individual characteristics of the defendant and the judge (and other court actors), and the characteristics of the community in which the court is located.

We might picture level of explanation as an inverted pyramid (while Kautt and Spohn use a pyramid in Figure 7.1, the idea might make even more sense upside down). The level at which the independent variables are measured can always be equal to or larger than the level at which the dependent variable is measured. If the dependent variable is the outcome in a criminal trial, then characteristics of the case can be used as independent variables because they are measured at the same (case) level. Furthermore, since cases are nested within courts and districts (both of which are a higher level than an individual case), perhaps characteristics of these levels could also help explain differences in the outcomes of trials. In this instance, we would be relying on multiple levels of explanation.

While discussions of units of analysis and levels of explanation can quickly get tangled up with the jargon of research methods and statistics, once again, the topic is actually quite simple. Picture a patrol officer who has stopped a drunk driver. Suppose the driver is belligerent and refuses to get out of the car as instructed by the officer. Think for a moment about all the potential forces acting on that individual officer when deciding what course of action to pursue. Certainly the officer’s own experiences, attitudes, and values will come into play. It is not

difficult to imagine two officers handling the situation very differently if one is more predisposed to violence than is the other, for example. The individual characteristics of the suspect might play a role. For instance, the officer might handle a strapping 240 pound young man differently from how he or she might handle a well-dressed older woman. The officer will also respond to cues present in the situation. Is it dark outside? Are the windows of the car tinted? Is the area populated and busy, or is it a lonely stretch of road? Finally, the officer will also presumably be influenced by organizational factors. What does department policy dictate? How has the department interpreted recent procedural law? What would the officer’s supervisor expect? In short, the officer would be influenced by a variety of individual, situational, and organizational factors. Each of these factors represents a level of explanation. A theory that accounts for police behavior in drunk driving situations using all of these factors would be relying on multiple levels of explanation.

#### *Institutional Arena*

Finally, the easiest way to distinguish among different theoretical approaches to criminal justice is probably to identify the sector in which the theory is focused. Sometimes the theorist focuses only on one part of the criminal justice system like the police or the courts; other times the focus is on the system as a whole. The chapters in this volume were divided up by sector, with part I containing three chapters that address the criminal justice system as a whole and criminal justice theory generally, and parts II through IV addressing the police, courts, and corrections, respectively.

Both Alan Liska, in his sociology of social control (1992a), and Bernard and Engel (2001), in their proposal for a framework of criminal justice theory, make the case for theories that span institutional arenas. Bernard and Engel argue that if we truly have a theory of “criminal justice” then we should be making theoretical statements that would hold across police, court, and correctional officials or agencies. Similarly, but even more expansive, Liska argues that a sociology of social control should be able to deal with theories of control across control sectors, such as crime, mental health, and poverty.

In most instances, the chapters in this book obviously do not get that far. It would seem to us that cross-institutional theories of criminal justice are indeed important, if quite deficient, as Howard and Freilich point out. But we would also suggest that requiring a theory to span sectors in order to make the grade is overly demanding and perhaps too narrow. While it would be interesting to determine if various criminal

justice officials respond in the same way to similar stimuli, it is certainly premature to cast off or denigrate studies of or within one sector as too narrow to be useful. Indeed, careful theoretical reviews will be needed that examine systems, organizations, and individuals for similarities and differences. We would not want to ignore what is unique to policing in the pursuit of what police have in common with correctional officers or to lose what is unique about criminal justice in pursuit of what all formal control systems have in common.

### A STRATEGY FOR ASSESSING THE STATE OF CRIMINAL JUSTICE THEORY: SOME ILLUSTRATIONS

Given the breadth, complexity, and relatively recent emergence of criminal justice as a research field (Cullen 1995), if we are to sort out and prioritize promising areas for study, we first need a means of organizing the work. The most useful framework would be one that facilitates thinking about causal theory, not merely prediction; one that does not confine our attention to topics and questions that already have been examined; and, similarly, one that permits us to assess readily both what has been done, and what remains to be explored. There are many ways to categorize criminal justice research (chapter 2 in this volume; Bernard and Engel 2001), but we suggest that one of the most promising ways to organize our assessments of previous research, and our recommendations for future study, is around units of analysis — the entities whose behavior we wish to explain (Snipes and Maguire's fifth theme in chapter 2).

A simple taxonomy of units of analysis would include individuals, organizations, communities, and polities. For each of these, we might construct a schema with the following dimensions: types of behavior worth studying, areas of potentially applicable theory, and extant theoretical and empirical work. By mapping these elements of criminal justice scholarship, we may be better able to answer three interesting questions: What has theory taught us about criminal justice behavior? What has our research on behavior taught us about popular theories? Should we be asking different questions, or asking questions differently, about criminal justice behavior? Development of this schema is beyond the scope of this chapter, but the following sections offer illustrations and some observations based on this strategy.

#### *Individuals*

As Walker (1993) and others have documented (e.g., chapters 1, 7, and 9), probably the most commonly studied aspect of criminal justice

behavior is the discretionary decision making of practitioners. This emphasis on police officers, prosecutors, judges, and correctional officers may stem from the politics that accompanied the emergence of criminal justice as a field of study in the 1960s and 1970s. When policy makers identified challenges to improving the criminal justice process, few questioned the structure or implied objectives of the existing systems and processes; instead, they equated dysfunction with departures from legal norms of equal treatment and due process, and therefore often directed their research toward individuals' failure to perform as expected, or to treat citizens fairly. In particular, they directed their attention toward discretionary decisions such as arrest, charging, and sentencing, and they sought explanations for disparities in these decisions in the behaviors of individual actors.

The simplest theories about individuals account for variation in behavior with individual-level constructs, such as social background, attitudes and beliefs, and experience. Theories linking these attributes have been developed fairly extensively for some kinds of actors (such as police and correctional officers), but much less so for others (prosecutors). For instance, scholars have hypothesized that variability in police officers' job performance (arrest, use of physical force) is influenced by age, sex, race, and family class status. Others have used these same independent variables to predict not only discretionary decisions, but also actors' role orientations, beliefs about their work and about constituencies, and commitment to occupations (Carter 1984; Gibson 1981a; Muir 1977). Researchers have also predicted attitudes about work, and working styles, from preprofessional as well as on-the-job experiences (such as education, other work experiences, and training; e.g., Lambert, chapter 9).

Much of this work stems from importation theories — theories that stipulate that work behavior is shaped by the characteristics of the individual, at least as much as the character of the work or the workplace (see Lambert, chapter 9; Worden 1993). As commonsensical as this sounds, however, importation theory has found limited support in criminal justice research. There are at least two reasons for this. First, the causal theories have not always been carefully specified, and as a result empirical tests only loosely mirror hypotheses. For example, gender and race often serve as proxies for very general (and often underspecified) constellations of experiences and attitudes; but null findings cannot tell us whether the theory is incorrect, or the sampled subjects simply did not fit gender or race stereotypes.

Second, individual-level theories overlook the effects of some powerful social and organizational processes, processes that may

lead individuals to change their attitudes, or to set them aside in the workplace. For example, criminal justice workers self-select into their occupations, so variance on some attitude and experience variables is limited in samples of practitioners. Furthermore, many criminal justice jobs have entrance barriers and strong socializing and training regimens that tend to standardize views about the work, and certainly are intended to standardize behavior (e.g., Heumann 1978).

Measuring key constructs in these kinds of theories — theories about organizational structure, culture, and socialization processes — is more challenging than examining individuals, but potentially more promising. Moreover, these theories introduce a larger range of interesting and important behavioral variables and questions. What do police departments or prisons do well (or poorly) to help workers adapt to their work? Is the blue-collar culture of police departments really just the aggregate result of traditional recruitment among the working class, or is it instead sustained (or undermined) by leadership, training, or departmental philosophy?

### *Organizations*

Criminal justice organizations are agencies that process people and information. Like many other organizations, they provide services, respond to needs and complaints, and spend tax money. They are nearly unique in their prerogative to use physical force and coercion to ensure compliance from citizens (in the form of arrest, contempt citations, subpoenas, probation revocation, or solitary confinement in prison, to name a few examples).

Formally, organizational behavior is bounded by responsibilities (e.g., the obligation to respond to 911 calls), constraints (such as the prohibition on unjustified detention), and accountability (the need to answer to political powers that authorize their work, as well as professional standards). Organizations also are characterized by variables such as culture and style of leadership. Although the basic functions of the various types of criminal justice organizations are well established (and are often reflected in their formal structure), other aspects of their activities vary considerably: some police departments innovate, while others do not; some prisons offer more rehabilitative programming than others; some prosecutors create specialized units. The challenge for social scientists is to catalog the behaviors worthy of study, and identify theories that might help us understand variation in those behaviors.

Most commonly, researchers (and the public) are interested in the relationships among the ways work is organized (including the

allocation of resources, people, and expertise) and the way work is performed (including quality, fairness, consistency, and efficiency). As an example, in this volume, Maguire and Uchida offer an exhaustive inventory of police department organizational behaviors, including activities, processes, performance, style, administrative arrangements, processing routines, structures, communication patterns, and corporate personalities or subcultures (see also Maguire and Uchida 2000). Researchers and policy makers have asked similar questions about other sectors: do public defenders provide better representation than do appointed counsel? Do vertical prosecution bureaus achieve higher conviction rates than does the horizontal division of labor? Do drug courts result in fewer jail sentences than traditional criminal courts? A second set of questions involves organizational changes: how, how much, and under what conditions can (and will) policy makers rearrange organizations to induce different behavior? Interestingly, systematic studies that assess organizational capacity to innovate are rare in criminal justice (see Worden, chapter 8).

Some of the most successful recent efforts to account for organizational behavior stem from institutional theory, which stipulates that organizational adaptations to environments serve not only practical, functional reasons (such as garnering sufficient resources or managing caseloads) but also the less obvious but critically important need to retain legitimacy by reflecting basic cultural values and beliefs. While criminal justice organizations have something of a monopoly on their business and are therefore unlikely to be put out of business by competitors (although private alternatives are proliferating), their roles as enforcers and arbiters of social norms generate constant potential challenges to their authority and legitimacy. Furthermore, since criminal justice agency leaders would be politically unwise to argue, as some of this volume's authors do, that criminal justice behavior does not significantly affect the rate or amount of crime, they must sometimes justify their existence or activities in other ways.

It is important to recognize that the institutionalization of practices, beliefs, and norms that are not demonstrably connected to performance takes place in two settings, or for two kinds of constituencies. First, practices become institutionalized because they suit local actors' expectations; they may be defended as inevitable or necessary when in fact they are simply familiar, comfortable, and predictable. For example, Church's early research (1985) on case delay in urban courts revealed that pretrial lapses (which vary greatly across jurisdictions) were unrelated to caseload, resources, or personnel; instead, each jurisdiction's court workers firmly believed that their particular turnaround

time was the result of case pressure, rules, or resource limits (and were therefore altogether defensible).

Second, practices become institutionalized for the consumption of external constituents. Renauer (chapter 6, this volume) observes that adoption of community policing may be less the consequence of commitment to a different model of crime control and community responsiveness than the result of national peer pressure from other departments and professional organizations, or community pressure for more accountability. Not surprisingly, the prospects for a fully operational community policing system appear to be related to motivation for innovation.

Institutional theory not only helps us understand how organizations negotiate their environments; it may also help us figure out why and how they can successfully disregard important elements of those environments. For example, a small collection of excellent case studies documents the ways in which court organizations subvert externally (often legislatively) imposed procedural rules and sanctioning mandates (Feeley 1983; Heumann and Loftin 1979; Horney and Spohn 1991). Leaving aside the simple political fact that legislatures have little power to bring judges and prosecutors into compliance, these actors have no incentive to set aside norms and standards that they have spent years practicing and justifying.

In short, our theorizing about criminal justice organizations has focused largely on two kinds of questions: First, how do internal organizational arrangements affect performance? Second, how do organizational relationships with political environments affect organizational behavior? What we have learned from the limited empirical research on these questions suggests that future studies would be well served to look beyond formal organizational goals and legal constraints and focus instead on less readily measurable but powerful influences on behavior such as organizational culture and political legitimacy.

### *Communities*

Communities historically have been the basis for criminal justice in American society. Therefore communities, defined as legally and geographically bounded jurisdictions, are units that shape the work of local criminal justice systems and react to those systems' behavior. But as noted previously in this chapter, the notion of communities encompasses a broader array of social groupings than cities and counties: we would also want to include neighborhoods, political wards, and, perhaps, organized grassroots interest groups that cross community

boundaries. These social entities practice a diverse range of activities, which have been more commonly the subject of speculation, and, sometimes theorizing, than of empirical scrutiny. Examples include political behavior such as electioneering, coalition formation, and voting; behavior more specifically directed at the performance of criminal justice agencies such as partnering and coproduction; behavior that legitimates (or calls into question) system practices or decisions, such as protesting, mobilization, or participation (as in civilian review boards). Many would also include as behavior collective opinion formation (example: fear of crime, beliefs about system integrity).

Community attributes often appear as independent variables explaining other things, such as organizational behavior (whether police departments adopt community policing models) and individual behavior (whether judges sentence harshly or leniently, in response to perceived community preferences). These sorts of studies typically model communities as static features of the criminal justice environment, to which agents and agencies react. Future researchers may expand this perspective on communities by exploring the nonrecursive relationships among criminal justice agencies and communities (e.g., Renauer's chapter 6; Sung 2001).

Because the most important (if least remarked) feature of many communities is their lack of communal action, researchers would benefit from learning more about what sorts of communities act collectively, and under what conditions. On this question, very different theoretical propositions might arise: one might hypothesize that economic marginality (neither hopeless poverty, nor comfortable affluence) motivates citizens to work together; a more pluralistic perspective would compare the activity levels of residential, commercial, and other interests (as well as their competition); still another proposition is that charismatic leadership generates some kinds of community action. Once researchers make headway on the important challenge of defining communities (perhaps by devising a more helpful lexicon to sort out the many meanings of this phrase), they would be better prepared to address other important questions about communities: for example, what attributes of communities might account for social equilibrium (rather than conflict) over enforcement priorities? What conditions incubate rather than stifle social protests over crime and criminal justice, regardless of levels of community participation? What factors in communities repress or inhibit coproduction or cooperation with authorities (J. D. Scott 2002)?

### Polities

Polities are political units of analysis: states, provinces, nations, and, at the international level, policy-making bodies, including states and provinces as well as nations and even international collectives with self-governing treaties (such as the United Nations). They are comprised of citizens, or members, and their governing bodies. One might distinguish them from communities, certainly in a Western context, insofar as they claim explicit authority to make (not merely interpret or implement) law, including laws about what is and is not crime, and how society will deploy its power against those accused of violating law, and in protection of those who are victimized.

American history and law regard crime and justice as peculiarly local phenomena, as Worden demonstrates (chapter 8, this volume), so why should higher order politics be of interest to researchers who study American criminal justice? First, most criminal justice policy is formally made at this level, including substantive and procedural law, many significant organizational and administrative decisions in the area of corrections, and resource allocations. Second, states' and nations' political cultures — their expectations of their government, including their criminal justice systems — vary significantly. In particular, where *crime* is defined broadly, to include whatever popular culture or powerful elites find unacceptable, inappropriate, or threatening, *criminal justice* will be a highly visible function in society.

Therefore, the criminal justice behavior exhibited by politics will include the rules they promulgate, as well as the structures and institutions they create to enforce them; one might also include public and elite expectations for (and reactions to) the system itself. While theorizing at this level may seem rather abstract, a few familiar examples quickly make the task appear not only practical but pressing: Why do some states adopt the death penalty and others do not? Why are some acts defined as crimes in some nations, but not others? Why do Americans value due process so highly? Taking these questions one step further, one might ask whether some features of criminal justice systems (such as a strong rights orientation, punitiveness, or repressive criminal codes) are related to social features including prevalence of crime, poverty, and education?

Answers to these questions can perhaps be found in theories designed to account, more generally, for societies' distributions of benefits and punishments. Some versions of conflict theory attribute legal definitions of crime, and enforcement priorities, to the interests of entrenched elites, who use the criminal justice system (like other social systems) to

manage their investments. Consensus theory suggests that these political decisions are more likely to reflect the collective will of citizens, for whom criminal justice is particularly salient to their notions of collective security and safety, as well as their normative views. Frequently these theories are presented as oppositional (e.g., Hagan 1989a; Lynch and Groves 1981), although a skillful (and agnostic) theoretical synthesis of them is not only conceivable but also tantalizing. Comparative and historical theoretical treatments (Beckett 1997; Garland 2001) suggest that the moral panic around crime issues that has dominated since the mid-1980s is the product of the shared exploitation of crime and victimization by the media and politicians; the unwitting consumers of this preoccupation with crime have been mainstream voters (Scheingold 1984, 1991).

These sorts of theories are powerful, but risky from a scientific perspective: they are easily expropriated for ideological purposes, and ideological debates typically leave little room for science. All too often, the standard of plausibility is substituted for the standard of probability, and we stop short of subjecting these theories to the tedious work of hypothesis development, measurement, and testing. This is understandable, since these units of analysis are big and unwieldy, change only gradually, and over spans of time that exceed the average researcher's professional career. It is almost as if such theories are too grand to be put to practical use. Moreover, social scientists have an uneasy and wary relationship with historical studies, which might provide the kinds of data that would yield some tests of these theories (but see Garland 2001; Myers 1993). Yet studies of politics such as American states reveal considerable variation in criminal justice behavior, and some promise in accounting for that variation with political and social variables (Horney and Spohn 1991; McGarrell and Duffee in this volume; McGarrell and Duffee 1995; Taggart and Winn 1991; Talarico and Swanson 1979).

### SUMMARY

We offer a simple strategy for taking stock of criminal justice theory: inventory what we know and what questions we have asked around the entities — the units of analysis — that *behave* in the context of criminal justice. This strategy puts the focus on behavior — actions, activities, decisions, responses — that can be attributed to identifiable social units. But is this strategy helpful, and if so, how?

First, organizing our understanding around social units' behavior directs us to look first at attributes of those units for theoretical causes:

this is efficient and commonsensical. It also paves the way for discovering that the most proximate theoretical causes are not always the most powerful ones, however; an important discovery. For example, individuals' behavior may be more deeply influenced by their organizations, and organizations by their political environments, than by their own internal characteristics. It is always good to explore the simplest explanations first; but if and when they fail, then it is wise to move to more complex levels of explanation.

Second, the focus on social units clarifies the importance of two basic scientific tasks that too often get hasty and inadequate attention from researchers: theorizing and measurement. If one is to theorize that a particular force causes an agent's behavior, one must assume or demonstrate the plausibility of that causal relationship. This simple requirement is overlooked surprisingly often. An example occurs in the sentencing literature, where researchers have sometimes modeled case outcomes (such as conviction) as a function of defendant attributes, even when *those attributes were not typically known or knowable by the decision makers at the time of conviction* (such as drug dependence or parental status). One is unlikely to make such a mistake if one simply remembers that human beings (judges and prosecutors) can only base decisions (including good, bad, biased, or fair ones) on information that they actually have. Similarly, theorizing about social units' behavior raises the stakes for careful conceptualization and measurement of those units' attributes and behavior. Hypothesizing that female police officers make fewer arrests than men is much less interesting than finding out whether women (and men) with traditional gender roles do their jobs differently — but sex and gender role are quite different variables, calling for different measures.

Finally, studying more complex social units, such as communities and polities, presents more challenges but possibly more payoffs than the field's traditional prioritization on individual and organizational studies. Such research might raise our awareness of variables that masquerade as constants in studies of other units of analysis. A simple example, entailing a widely regarded theory, is Lipsky's analysis of street-level bureaucrats. Astute readers note that Lipsky (1980) accounts for what many might see as a set of pathologies (and seemingly universal ones) among those who work directly with social agency clients, including criminal justice clients. His accounting for these problematic but pervasive behaviors is compelling, in part because it seems to apply, at least partly, to nearly every bureaucrat: police, probation officers, teachers, and social workers. More astute readers recognize, however, that Lipsky is doing more than describing a seemingly invariable state of affairs,

because he attributes those conditions, ultimately, to American society's unwillingness to take on full responsibility for the complexity and costs of responding to the social problems those bureaucrats face each day. *Social indifference* (or ignorance) of these kinds of problems is, of course, a construct that varies across states and other sorts of polities.

### *Lingering Questions*

We are of course not suggesting that reviewing and formulating theory around the device of the unit of analysis is the only, or even the best way to proceed. A number of other rubrics should also be explored. There is a great deal of such work to be done, in part because criminal justice theory has not often been taken seriously enough for long enough to generate systematic comparisons of theoretical schemas. We do not really know what they hold in common and what is different. It is time for that work to begin. While that task is far too vast for this volume, we hope that this collection will spur on such work.

As we close, we want to take another brief look at other lingering and troublesome questions. While we can provide only tentative and suggestive answers here to some of these, we anticipate that the development of criminal justice theory will enable better and more exacting answers in the future.

Is it possible to find or develop a criminal justice theory that would span different units of analysis? Is it even desirable to look? In chapter 3, Howard and Freilich caution against grand theories. It may be very premature or even misleading and dangerous to search for a theory that "explains all criminal justice responses at all times." This, of course, is precisely what Black thought he had done with *The Behavior of Law* (1976). He proposed that the same variables that would explain individual level behavior would explain behavior by communities or polities. Most of the evidence suggests that this was a false hope. Indeed, there appear often to be very different explanations for individual-level and higher unit-level behaviors. We suspect that Howard and Freilich are correct that grand theories of criminal justice are unlikely and perhaps misleading.

Is it useful to think of schools of criminal justice theory, as is often the case with criminological theory? Our view is that this might occur (actually, it is probably an inevitable by-product of theory development). As criminal justice scholars become more explicitly concerned with the nature of the theories that they espouse and test they will seek means of comparing and contrasting different kinds of criminal justice theories. If kept under control, we think this kind of development is a positive sign; it suggests some vibrancy in theoretical thinking. But the

identification of schools of criminal justice theory would also suggest some hazards. Schools of thought are often reified and taught; they are valued as truths rather than as tools for research. We would be wary of intellectual (and emotional) commitments to specific theories, as schools of thought might imply. We are convinced that “conflict” and “consensus” “theories” are usually too global, too grand, or too simplistic to be of much help in describing most criminal justice reality — although both Scheingold (1984), and Wilkins (1991), have made some strides trying to think of when and where there is more or less consensus or conflict, or more or less extremism in reaction to crime. Other kinds of schools of thought about criminal justice that have been bandied about, such as radical, liberal, and conservative seem to describe the political rather than scientific intent of some researchers. In any case, we suspect that criminal justice theory is a long way from being codified into schools of thought. It probably will occur several times over, as it has in other sciences. But criminal justice theory is relatively underdeveloped to allow much categorization of types of theory.

Can criminal justice theory develop separately from the broader study of social control? We suspect that it will and should, within limits. First, academic programs of criminology and criminal justice continue to develop rapidly, and the fastest growth in these programs now is at the doctoral level. The field of crime and criminal justice is maturing as a scientific field. It will not continue to mature unless criminal justice theory is taken seriously. And it seems unlikely to us that the field will continue to be serious about crime theory but permit other fields such as political science and sociology to focus on criminal justice theory. Certainly, criminal justice is one form of state social control and sociologists and political scientists will continue to be interested in criminal justice phenomena. But we also think that criminal justice is sufficiently distinct from other forms of social control and other forms of political power that it can and will benefit from criminal justice specialists developing theory uniquely suited to explaining criminal justice behavior.

Finally, how is criminal justice theory related to criminological theory? Our honest answer at the moment is that we do not know but are eager to find out. One of the authors once mentioned to another colleague that the most basic theoretical problem in criminal justice is explaining what will be called a crime. His colleague responded by saying that it was also the most fundamental criminological problem. We are not sure whether these two scholars are agreeing with each other or talking past each other, but we think it could be very productive to explore systematically the relationship between explaining crime and

explaining criminal justice. Leslie Wilkins (1991) wrote that crime and the reaction to crime could not be separated because they depend on each other. A crime is not a fact but a decision to respond to a fact in a certain way. To call something a crime means that it should be punished, or presupposes the criminal justice system (of some sort). Crime does not come before punishment; the availability of punishment leads to labeling acts as crimes and some people as criminal. This observation would lead some people to say that criminal justice “causes” crime. The observation is either trivial or profound, but it is not going to help us very much with the practical task of sorting through the theoretical and empirical connections between crime and criminal justice.

Yes, there must be some concept of “crime” in order for some harmful acts to be labeled as such and such labeling may have its own effects on a variety of behaviors by a variety of people. And it may be very interesting to promote more studies that examine how, when, and why the idea of crime and the apparatus of criminal justice emerge in socio-political systems (see Robinson and Scaglione 1987; Schwartz and Miller 1965). Such studies are an important subset of theoretical and research problems in which one is trying to explain why criminal justice rather than some other social control is selected by a society in response to a problem.

Most of the connections between criminological and criminal justice theory will be more mundane and more frequent than these queries about the origins of crime and punishment. Most will start with a base in which responding to a wide range of social acts as crime is commonplace and a criminal justice system is institutionalized. The questions will not concern which is first or more primordial. Instead, we will be concerned with whether specific forms of criminal justice have specific effects on types of crime and similarly whether specific kinds of crime have specific effects on criminal justice. For practical and political reasons, one of the more common connections between criminal justice theory and criminological theory will probably stem from current interests in promoting crime suppression or prevention programs, including those that involve criminal justice policies, agencies, and actions. This will return us to the conundrum described in chapter 1: the government, which funds most criminal justice research is much more interested in criminal justice effectiveness in reducing crime (e.g., in some form of criminological theory) than in criminal justice theory. But, to the extent that such policy or program effects can be found, that might spur interest in replication. If we can control crime in one place, can we replicate the program in another place? While the question has often been asked, we have rarely been seriously interested in the answer, which would require the development of criminal justice

theory. If we can reproduce a program, that means we can, or expect that we can, manipulate the variables that cause some forms of criminal justice behavior. Can we?

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# Criminal Justice Theory

Explaining the Nature and  
Behavior of Criminal Justice

David E. Duffee  
Edward R. Maguire

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