Contents

Preface xx

| PART I | CASE CLOSE-UP Brown v. Mississippi 17 The Common Law Heritage 18 | |
|---|--|--|
| THE STRUCTURE OF U.S. CRIMINAL COURTS | Judge-Made Law 18 Precedent 19 | |
| CHAPTER 1 | Multiple Sources of Law 19 Constitutions 19 Statutes 21 Administrative Regulations 21 Judge-Made Law 21 | |
| Law, Crime, Courts, and Controversy 2 | | |
| Courts and Crime 5 COURTS, CONTROVERSY, & JUSTICE Does the Criminal Law Inhibit Justice as a Function of Racial Biases? 6 | The Adversary System 22 Safeguards 22 The Rights of the Accused 22 Due Process 24 | |
| Courts and the Criminal Justice System 8 An Interdependent Criminal Justice System 9 A Fragmented Criminal Justice Nonsystem 9 Tensions and Conflicts 10 | Bill of Rights 24 Introduction to Criminal Law 24 Elements of a Crime 26 Actus Reus: The Guilty Act 26 | |
| An Overview of U.S. Courts 10 | Mens Rea: Criminal Intent 26 Union of Act and Intent 27 | |
| Identifying the Actors in the Courthouse 12 Prosecutors 12 Defense Attorneys 13 Judges 13 Defendants and Victims 13 An Overview of Criminal Judicial Processes 13 Arrest 13 Initial Appearance 13 Bail 14 Grand Jury 14 Preliminary Hearing 14 Arraignment 15 Discovery 15 Pretrial Motions 15 Plea Negotiations 15 Trial 15 Sentencing 15 Appeal 16 | Attendant Circumstances 27 Results 27 Defining Crimes 27 Criminal Defenses 27 Defenses That Negate Mens Rea 28 Defenses of Justification 28 Procedural Defenses 28 Defenses of Excuse 28 | |
| | Law on the Books vs. Law in Action 29 Courts and Controversy 31 Crime Control Model 31 Due Process Model 32 Shifting the Balance 33 Media Depictions and Distortions of Crimina Courts 33 Conclusion 34 Chapter Review 35 | |

The Basis of Law 16

vii

| Critical Thinking Questions 36 |
|--|
| Key Terms 36 |
| For Further Reading 37 |
| CHAPTER 2 |
| Federal Courts 38 |
| Basic Principles of Court Organization 41 Dual Court System 41 Jurisdiction 41 Geographical Jurisdiction and Venue 41 Subject Matter Jurisdiction 43 Personal Jurisdiction 43 |
| COURTS, CONTROVERSY, & THE ADMINISTRATION OF JUSTICE Should the Double Jeopardy Clause Prohibit Parallel State and Federal Prosecutions? 44 Hierarchical Jurisdiction 45 |
| Differentiating Trial and Appellate Courts 45 |
| History of the Federal Courts 45 The Constitutional Convention 45 The Judiciary Act of 1789 46 1789–1891 46 Court of Appeals Act of 1891 47 Federal Courts Today 47 |
| U.S. Magistrate Judges 49 |
| Caseload of U.S. Magistrate Judges 49 |
| U.S. District Courts 49 Caseload of U.S. District Courts 50 Diversity Jurisdiction 50 Federal Questions 51 The Constitutionalization of Criminal Procedure 52 Discrimination Laws and Civil Rights Cases 52 Prisoner Petitions 53 Discrimination and Civil Rights Caseload in the Federal Courts 53 |
| U.S. Courts of Appeals 53 |
| Caseload of U.S. Courts of Appeals 56 |
| U.S. Supreme Court 56 |

Granting Cert: The Rule of Four 56

Caseload of U.S. Supreme Court 57 Circuit Justices 57 Specialized Federal Courts 57 Military Justice 59 Enemy Combatants 59 Foreign Intelligence Surveillance Court 60 Immigration Courts 61 Federal Judicial Administration 61 Chief Justice 62 Judicial Conference of the United States 64 Administrative Office of the U.S. Courts 64 Federal Judicial Center 65 Judicial Councils 65 U.S. Sentencing Commission 65 Caseloads in the Federal Courts 65 Increase the Number of Federal Judges? 66 Reduce Federal Jurisdiction? 66 Consequences of Federal Involvement in the Criminal Justice System 67 Forum for Symbolic Politics 67 Federal Dollars 67 CASE CLOSE-UP Floyd v. City of New York 68 Conclusion 69 Chapter Review 70 Critical Thinking Questions 71 Key Terms 72 For Further Reading 72 **CHAPTER 3** State Courts 74 History of State Courts 77 Colonial Courts 77 Early American Courts 77 Courts in a Modernizing Society 77 Trial Courts of Limited Jurisdiction:

Lower Courts 78

Cases in the Lower Courts 79 Nonfelony Criminal Cases 79

Small Claims Civil Cases 80

Traffic Offenses 79

| COURTS, CONTROVERSY, & REDUCING CRIME Should DUI and Distracted Driving Prosecutions Be Increased? 81 | Consequences of Court Organization 102 Decentralization and Choice of Courts 102 |
|---|---|
| Justice of the Peace Courts 82 | Local Control and Local Corruption 102 Uneven Court Financing 103 |
| Lower Caseloads 83 | _ |
| Lack of Resources 84 | Conclusion 103 |
| Familiarity 84 | Chapter Review 104 |
| Reforming JP Courts 84 | Critical Thinking Questions 104 |
| Municipal Courts 85 | Key Terms 105 |
| Assembly-Line Justice and the Courtroom Work Group 86 | For Further Reading 105 |
| Sentencing in the Lower Courts 86 | CHAPTER 4 |
| Problems of the Lower Courts 87 | <u> </u> |
| Inadequate Financing 87 | Juvenile Courts 106 |
| Inadequate Facilities 87 | l |
| Lax Court Procedures 87 | Juvenile Courts 100 Years Ago 109 |
| Unbalanced Caseloads 87 | Industrialization, Cities, and Crime 109 |
| Community Justice 88 | The Child Savers and the Progressive Movement 109 |
| Alternative Dispute Resolution 88 | Parens Patriae 110 |
| Community Courts 88 | |
| Trial Courts of General Jurisdiction: Major Trial Courts 89 | How Juvenile Courts Differ from Adult Courts 110 Emphasis on Helping the Child 110 |
| Intermediate Courts of Appeals 90 | Informal Proceedings 110 Proceedings Based on Civil Law 111 |
| State High Courts of Last Resort 92 | Secret Proceedings 111 |
| Court Unification 93 | Absence of Jury Trials 111 |
| Key Components 93 | The Organization of Juvenile Courts 112 |
| Simplified Court Structure 93 | Juvenile Court as a Separate Court 112 |
| Centralized Administration 93 | Juvenile Court as Part of Family Court 112 |
| Centralized Rule Making 93 | Juvenile Court as a Unit of Trial Court 112 |
| Centralized Judicial Budgeting 93 | Law in Action: The Impact of Structure 112 |
| Statewide Financing 94 | Juvenile Court Jurisdiction: Subject Matter 113 |
| Analysis 96 | Juvenile Delinquency 113 |
| Problem-Solving Courts 96 | Status Offenses 113 |
| | Children in Need of Supervision 113 |
| CASE CLOSE-UP Ewing v. California and Three | Law in Action: One-Pot Jurisdiction 114 |
| Strikes Laws 97 | Juvenile Court Jurisdiction: Age 114 |
| Drug Courts 97 | Age Limits for Original Jurisdiction over |
| The Effectiveness of Drug Courts 98 | Delinquency Matters 114 |
| Juvenile Drug Courts 99 | Age Limits Beyond Original Jurisdiction 115 |
| Domestic Violence Courts 99 Mental Health Courts 100 | Transfers to Adult Court 116 |
| | Types of Transfers 116 |
| Technology Shapes the Courtrooms of the Future 101 | Judicial Waivers 116 |

For Further Reading 136

| Prosecutorial Waivers 118 | PART II |
|--|---|
| Statutory Exclusion/Legislative Waivers 119 | PEOPLE IN THE COURTS |
| Automatic Waivers 119 | |
| Corrective Mechanisms 119 | CHAPTER 5 |
| Use of Waivers 119 | The Dynamics of |
| Due Process in Juvenile Courts 121 | Courthouse Justice 138 |
| Key Court Decisions 121 | Courtiflouse Justice 130 |
| COURTS, CONTROVERSY, & REDUCING CRIME Should Juveniles Be Tried as Adults? 122 | The Courthouse and the People Who Work There 141 The Courthouse 141 |
| CASE CLOSE-UP In re Gault and Due Process in Juvenile Courts 123 | The Courtroom 142 |
| Important Congressional Acts 124 | Behind the Scenes 145 |
| Courtroom Work Group 124 | Courthouse Security and Changing Technologies 146 |
| Judges 126 | Targeted Acts of Violence in Courts 146 |
| Hearing Officers 126 | Security Beyond the Courthouse 147 |
| Prosecutors 126 | Dynamics of Courthouse Justice 148 |
| Defense Attorneys 126 | Assembly-Line Justice 149 |
| Probation Officers 127 | Strengths of the Explanation 149 |
| Steps of the Juvenile Court Process 127 | Weaknesses of the Explanation 149 |
| Delinquency (Crime) 127 | Discretion 150 |
| Summons (Arrest) 127 Intake (Initial Hearing) 129 | The Downside of Discretion 151 |
| Detention Hearing 129 | The Courtroom Work Group 151 |
| Petition 130 | Mutual Interdependence 152 |
| Conference 130 | Shared Decision Making 152 |
| Evidence: Gathering and Suppressing 131 | Socialization 153 |
| Plea Bargaining 131 | Normal Crimes 153 Rewards and Sanctions 153 |
| Adjudicatory Hearing 131 Disposition 131 | Variability in Courtroom Work Groups 153 |
| Appeal 132 | |
| The Future of Juvenile Courts 133 | COURTS, CONTROVERSY, & GENDER EQUITY |
| Crime Control Model: More Adult | Is Gender Bias a Significant Problem in the Courts? 154 |
| Penalties 133 | |
| Due Process Model: More Youth | The Problem of Delay 155 Consequences of Delay 156 |
| Crime Prevention 133 | Assessing the Costs of Delay 157 |
| Conclusion 134 | Law on the Books Approach to Court Delay 157 |
| Chapter Review 134 | |
| Critical Thinking Questions 135 | CASE CLOSE-UP Barker v. Wingo and the Right to a Speedy Trial 158 |
| Key Terms 136 | Speedy-Trial Laws 158 |
| · · · · · · · · · · · · · · · · · · · | |

Limits of Speedy-Trial Laws 159

Law in Action Approach to Court Delay 159
Case Scheduling 160
Efforts at Coordination 160
Variability in Courtroom Work
Groups Revisited 160
Legal Ethics 160
Conclusion 161
Chapter Review 162
Critical Thinking Questions 163
Key Terms 163
For Further Reading 163

CHAPTER 6

Prosecutors 166

Origin of the Public Prosecutor 170

From Private to Public Prosecutions 170
Quasi-Public Prosecutions 170
Role of the Prosecutor 171
Broad Discretion 171
Limits on Discretion During Trial 173
Prosecutorial Misconduct 173
Charging Decisions 174
Overview of Focal Concerns Theory 174
Focal Concerns Theory Applied to Charging 174

CASE CLOSE-UP Connick v. Thompson and Prosecutorial Misconduct 175 Decentralization 177

Prosecution in Federal Courts 177

COURTS, CONTROVERSY, & GENDER EQUITY

Are Sexual Assaults Against Women
Underprosecuted? 178
Solicitor General 180
Criminal Division of the Justice Department 180
U.S. Attorneys 180

Prosecution in State Courts 181 State Attorneys General 181 Chief Prosecutor 181 Local Prosecutor 183

The Prosecutor's Office at Work 183 Assistant District Attorneys 183 Learning the Job 184
Promotions and Office Structure 185
Supervision 186
Attempts at Greater Supervision 186

Prosecutorial Ethics 187
Prosecutorial Immunity 187
Ethical Duties of Prosecutors 188

Prosecutors and Courtroom Work Groups 188
Conflicting Goals and Contrasting Work
Groups 189
Political Styles and Contrasting Work Groups 190

The Expanding Domain of the Prosecutor 190 Improving Police–Prosecutor Relationships 191 Community Prosecution 191

Conclusion 192
Chapter Review 193
Critical Thinking Questions 193
Key Terms 194
For Further Reading 194

CHAPTER 7

Defense Attorneys 196

The Right to Counsel 199
Nonfelony Criminal Prosecutions 199

CASE CLOSE-UP Gideon v. Wainwright and the Right to Counsel 201
 Stages of the Criminal Process 201
 Ineffective Assistance of Counsel 203
 Self-Representation 204

Defense Attorneys and Courtroom Work Groups 205

Rewards and Sanctions 206 Variations in Cooperation 207 An Assessment 207

The Criminal Bar 208

Diversity and Stratification
of the Legal Profession 208

Environment of Practice 208

Providing Indigents with Attorneys 209 Assigned Counsel 210 Contract Systems 211 Public Defender 211

COURTS, CONTROVERSY, & ECONOMIC

INEQUALITY Are We Spending Too Little or Too Much on Indigent Defense? 212

Assessing the Merits of Public Defenders 212

Lawyers and Clients 214

Lawyers' Views on Their Clients 215 Defendants' Views on Their Lawyers 216

Defense Attorney Ethics 216

Conclusion 218

Chapter Review 219

Critical Thinking Questions 219

Key Terms 220

For Further Reading 220

CHAPTER 8

Judges 222

The Position of Judge 225

Powers of the Judge 225

Benefits of the Job 225

Frustrations of the Job 227

Judges Within the Courtroom Work Group 227

Varying Roads to a Judgeship 228

Executive Appointments 228

Nominations to the Federal Bench 228

The Role of the American Bar Association

and Other Interest Groups 233

Nominations to the U.S. Supreme Court 234

Executive Appointments in the States 235

Election of Judges 235

Merit Selection 236

Consequences of Judicial Selection 237

Which System Is Best? 237

Similarities in Judges' Backgrounds 238

Diversity and the Judiciary 239

CASE CLOSE-UP Chisom v. Roemer and Diversity

on the Bench 241

Judging the Judges 241

Judicial Independence 242 Judicial Performance 242

COURTS, CONTROVERSY, & THE ADMINISTRATION

OF JUSTICE Is Judicial Independence Being

Undermined? 243

Judicial Misconduct 244

State Judicial Conduct Commissions 244

Federal Conduct and Disability Act 246

Judicial Ethics 247

Conclusion 251

Chapter Review 252

Critical Thinking Questions 252

Key Terms 253

For Further Reading 253

CHAPTER 9

Defendants, Victims, and Witnesses 254

Characteristics of Defendants 257

Overwhelmingly Male 258

Mostly Underclass 258

Racial Minorities Overrepresented 259

Defendants in Court 259

COURTS, CONTROVERSY, & RACIAL

DISCRIMINATION Can Latinos Get Equal Justice

under the Law? 260

Pro Se Defendants 260

The Pitfalls of Social Media for Defendants 262

Courts Through the Eyes of Victims and

Witnesses 263

Frustrations in Coping with the Process 264

Travails of Testifying 264

Surprising Support for the System 264

Victims and Witnesses Through the Eyes

of the Court 265

Lack of Cooperation 265

Witness Intimidation 265

Social Media and Victims 267

Characteristics of Victims 267

| Prior Relationships Between Defendants and Victims 267 Intimate-Partner Violence 268 | Arrest 285 Quality of Arrests 286 |
|--|--|
| Intimate-Partner Violence and the Police 268 | Initial Appearance 286 Charging 288 |
| CASE CLOSE-UP Thurman v. Torrington and Domestic Violence Arrests 269 Intimate-Partner Violence in the Courts 269 | CASE CLOSE-UP Country of Riverside v. McLaughlin and a Prompt Hearing Before a Magistrate 289 Law on the Books: Prosecutorial Control 289 |
| Aiding Victims and Witnesses 271 Victim/Witness Assistance Programs 273 Victim Compensation Programs 273 Victims' Bill of Rights 274 Victim Impact Statements 274 Constitutionality of Victim Impact Evidence 275 Victim Impact Evidence and Restorative Justice 275 Effects of Victim Impact Statements on Sentences 276 Aiding or Manipulating Victims? 276 The Victims' Rights Movement 276 Differing Goals 276 Do Victims Benefit? 277 Conclusion 277 Chapter Review 278 Critical Thinking Questions 279 Key Terms 279 For Further Reading 279 | COURTS, CONTROVERSY, & ECONOMIC INEQUALITY Are White-Collar Criminals Underprosecuted? 290 Law in Action: Police Influence 292 Courts and Controversy: Charging Decisions 292 Bail 292 Law on the Books: The Monetary Bail System 292 Bail Procedures 292 Forms of Bail 293 Preventive Detention 293 Law in Action: The Context of Bail Setting 294 Bail Agents and Bounty Hunters 295 Effects of the Bail System 295 Jail Conditions 295 Race and Ethnicity 296 Failure to Appear 296 Case Disposition 296 Bail Reform 297 Are Bail Schedules Unconstitutional? 297 Reducing or Eliminating |
| PART III | Commercial Bonds 297 Pretrial Release Services 298 |
| PROCESSING CRIMINAL CASES IN THE COURTS | Risk Assessment 298 Pretrial Supervision 299 |
| CHAPTER 10 | Preliminary Hearing 299 Law on the Books: Weighing Probable Cause 299 |
| From Arrest and Bail Through Arraignment 280 | Law in Action: Variations in Using the Preliminary Hearing 300 Grand Jury 301 |
| Crime 283 UCR 283 NIBRS 283 Problems with Crime Measurement 284 | Law on the Books: Shield and Sword 302 Law in Action: Prosecutorial Domination 303 Courts and Controversy: Reform the Grand Jury? 303 |

| Arraignment 303 | Applying the Law of Interrogation 327 |
|---|--|
| Law in Action Perspective: Case Attrition 305 | Search and Seizure 330 |
| Why Attrition Occurs 306 | Search Warrants 331 |
| Legal Judgments 306 | Applying for Search Warrants 331 |
| Policy Priorities 306 | Authority to Issue a Search Warrant 332 |
| Personal Standards of Justice 307 | The Requirement of Particularity 332 |
| The Criminal Justice Wedding Cake 307 | Executing Search Warrants 332 |
| Celebrated Cases 308 | After Search Warrants Are Executed 333 |
| Serious Felonies 308 | Warrant Exceptions 334 |
| Lesser Felonies 308 | Electronic Surveillance 336 |
| The Lower Depths: Misdemeanors 308 | Eavesdropping and Consent Surveillance 336 |
| Conclusion 309 | Electronically Stored Information 336 Video Surveillance 337 |
| Chapter Review 310 | Intelligence Surveillance 337 |
| Critical Thinking Questions 311 | Applying the Fourth Amendment 337 |
| Key Terms 311 | The Exclusionary Rule and the Courtroom Work |
| For Further Reading 312 | Group 341 |
| | Pretrial Motions 341 |
| CHAPTER 11 | Defense Attorney as Prime Mover 341 |
| Disclosing and Suppressing | The Defensive Posture of the Prosecutor 342 |
| | Trial Judges as Decision Makers 342 Police Testimony 343 |
| Evidence 314 | - |
| Discovery 317 | Law and Controversy: Costs of the Exclusionary |
| Law on the Books: Rules Requiring | Rule 343 |
| Disclosure 317 | COURTS, CONTROVERSY, & REDUCING CRIME |
| Discovery of Exculpatory Evidence 318 | Should the Exclusionary Rule Be |
| Discovery of Impeachment Evidence 319 | Abolished? 344 |
| Law in Action: Informal Prosecutorial | Conclusion 345 |
| Disclosure 319 Law and Controversy: Requiring Reciprocal | Chapter Review 345 |
| Disclosure 321 | Critical Thinking Questions 347 |
| Suppressing Evidence 322 | Key Terms 347 |
| The Exclusionary Rule 322 | For Further Reading 348 |

CHAPTER 12

Negotiated Justice and the Plea of Guilty 350

Law on the Books: Types of Plea Agreements 353 Charge Bargaining 354 Count Bargaining 354

Fruit of the Poisonous Tree 323

Interrogations and Confessions 324

The Voluntariness Standard 324
The Birth of *Miranda* Warnings 325

Interrogations and the Fourteenth

Interrogations 326

Amendment 327

CASE CLOSE-UP Miranda v. Arizona and Police

Interrogations and the Sixth Amendment 327

Sentence Bargaining 354 Key Terms 372 Differentiating Plea Bargaining from "Straight-For Further Reading 372 Up" Pleas 354 Law in Action: Bargaining and Caseloads **CHAPTER 13** Law in Action: Bargaining and Discretion 356 374 Trials and Juries Presumption of Factual Guilt 356 History of Trial by Jury 377 Costs and Risks of Trial 356 English Roots 377 What to Do with the Guilty 357 Colonial Developments 377 Bargaining and the Courtroom Work Group 357 Law on the Books: The Constitution Prosecutors 358 and Trial by Jury 377 Defendants 358 Scope of the Right to Trial by Jury 378 Jury Size 380 Defense Attorneys 359 Unanimity 382 Judges 359 Law on the Books: Selecting a Fair and Unbiased Dynamics of Bargaining 360 Jury 382 Decision-Making Norms 360 Master Jury List 383 Why Cases Go to Trial 361 Summoning the Venire 384 Jury Trial Penalty 361 Venire Eligibility 384 Copping a Plea 362 Voir Dire 384 Questioning the Defendant 363 The Accuracy of Voir Dire 385 Waiver of Rights 364 Excusing Jurors for Cause 386 Allocution 364 Excusing Jurors Without Good Cause 386 Competency 364 No Contest and Alford Pleas 366 CASE CLOSE-UP People v. Garcia: Should Batson Acceptance and Withdrawal of Pleas 366 Extend to Sexual Orientation? 387 Effective Assistance of Counsel During Plea Serving on a Jury 388 Bargaining 366 Law in Action: Choosing a Jury Biased in Your CASE CLOSE-UP Santobello v. New York and Favor 388 Honoring a Plea Agreement 367 Educating Jurors 388 Scientific Jury Selection: Profiling Juries Using Law in Controversy: Abolishing Plea Consultants 389 Bargaining 368 Presumptions and the Burden of Proof 389 Are the Changes Implemented? 368 Starting Presumptions **COURTS, CONTROVERSY, & THE ADMINISTRATION** Burdens of Proof 390 **OF JUSTICE** Who Benefits from Plea Overview of Basic Evidence 390 Bargaining? 369 Differentiating Direct and Circumstantial Is Discretion Eliminated or Just Moved Evidence 390 Elsewhere? 369 Types of Evidence 390 Do Offsetting Changes Occur? 370 Basic Rules of Evidence 391 Conclusion 370 Special Rules of Evidence Governing Expert Chapter Review 371 Witnesses 391 Critical Thinking Questions 372 Determining Reliability 391

| Forensic Scientific Evidence in the Age of <i>Daubert</i> 393 Pseudoscience Contributes to Wrongful Convictions 393 New Debates on the Validity of Forensic DNA Analysis 395 The CSI Effect 396 Objections to the Admission of Evidence 397 | New Technology as Evidence 411 Conclusion 412 Chapter Review 412 Critical Thinking Questions 414 Key Terms 414 For Further Reading 415 CHAPTER 14 |
|--|---|
| Challenging Forensic Evidence 398 | Sentencing 416 |
| Steps in the Trial Process 398 Opening Statements 398 Prosecution's Case-in-Chief 398 | Why Do We Punish? 418 Retribution 418 |
| COURTS, CONTROVERSY, & THE ADMINISTRATION OF JUSTICE Should Fingerprint Evidence Be Admissible? 399 Motion for Judgment of Acquittal 400 Defense's Case-in-Chief 400 The Defendant as Witness 400 Renewed Motion for Judgment of Acquittal 402 Rebuttal 402 | Deterrence 419 Rehabilitation 420 Incapacitation 421 Restoration 422 Competing Sentencing Philosophies 423 Who Should Decide the Sentence? 423 Legislative Sentencing Responsibility 423 Judicial Sentencing Responsibility 423 Executive Sentencing Responsibility 424 |
| Closing Arguments 402 Jury Instructions 402 Jury Deliberations 403 Are Juries Biased? 404 The Verdict 405 Postverdict Motions 405 | The Courtroom Work Group and Sentencing Decisions 424 Probation Officers 425 Prosecutors 427 Defense Attorneys 427 |
| | Judges 428 |
| Law in Action: Trials as Balancing Wheels 406 Popular Standards of Justice 406 Uncertainty 406 Provincial Protein Bublishers 407 | Changing Sentencing Structures 428 Law in Controversy: Reducing Judicial Discretion 428 Law on the Books: Variations of Determinate Sentencing Return 429 |
| Prejudicial Pretrial Publicity 407 Limited Gag Orders 408 Change of Venue 408 Sequestering the Jury 408 | Structured Sentencing Schemes 429 Presumptive Sentencing in the States 429 State Sentencing Guidelines 430 |
| Media in the Courtroom 408 Changing Views on Cameras in the Courtroom 408 Current Broadcasting Rules 409 Technology Beyond "Cameras" 410 Misuse of Technology 410 Media Distortion 410 | The Continuum of Voluntary to Required Use 431 The Constitutionality of State Sentencing Guidelines 431 Federal Sentencing Guidelines 432 Law in Action: Diverse Impacts 433 Increasing the Severity of the Penalty 434 |

| Law on the Books: Mandatory Minimum | Sentencing Disparities 455 |
|---|--|
| Sentences 434 | The Geography of Justice 455 |
| Law in Action: Nullification by Discretion 435 | Judges' Backgrounds and Attitudes 456 |
| Law in Controversy: Negative Side Effects 435 | Discrimination in Noncapital Sentencing 457 |
| What Sentence Should Be Imposed? 436 | Economic Status 457 |
| Imprisonment 436 | Sex 458 |
| Overcrowding 436 | Race 458 |
| Conditions of Confinement Lawsuits 437 | Age 459 |
| High Costs 440 | The Effects of Intersectionality 459 |
| Probation 440 | Discrimination and Capital Punishment 460 |
| Fines 441 | Offender-Victim Dyad 460 |
| Restitution 441 | Evidence of Discrimination since <i>Gregg</i> 460 |
| Intermediate Sanctions 442 | Evidence of No Discrimination since <i>Gregg</i> 461 |
| Community Service 442 | McCleskey v. Kemp Rejects Social Science |
| Intensive-Supervision Probation 443 | Evidence 461 |
| Home Detention with Electronic | Conclusion 462 |
| Monitoring 443 | Chapter Review 462 |
| GPS Monitoring 444 Root Compound Shook Incorporation 444 | Critical Thinking Questions 464 |
| Boot Camps and Shock Incarceration 444 | Key Terms 464 |
| The Death Penalty 444 Eighth Amendment Standards 446 | For Further Reading 465 |
| Eighth Amendment Standards 446 Method of Decision Making 446 | Tot Further Reading 100 |
| Method of Execution 447 | CHAPTER 15 |
| Death-Qualified Juries 449 | Appellate and Habasa |
| Narrowing Death-Eligible Cases 449 | Appellate and Habeas |
| | Corpus Review 466 |
| COURTS, CONTROVERSY, & JUDICIAL | • |
| ADMINISTRATION Should the Death Penalty Be | Nature of the Appellate Process 469 |
| Abolished? 450 | The Purposes of Appeal 469 |
| Crime Limitations 450 | Limitations on the Right to Appellate |
| Developmental Limitations 450 | Review 469 |
| CASE CLOSE-UP Roper v. Simmons: Should | Appellate Standards of Review 472 |
| Juveniles Be Sentenced to Death? 451 | Appellate Court Procedures 473 |
| Lengthy Appeals 451 | Notice of Appeal 474 |
| Cost Concerns 452 | Appellate Court Record 474 |
| Normal Penalties and Sentencing Decisions 452 | Appellate Briefs 474 |
| Seriousness of the Offense 452 | Oral Argument 475 |
| Prior Record 453 | Written Opinion 475 |
| Aggravating or Mitigating Circumstances 454 | Disposition 476 |
| Law in Controversy: Uncertainty and Public | Reversible vs. Harmless Error 476 |
| Opinion 454 | Rising Caseloads and Expedited Appeals 477 |
| - | Criminal Appeals 477 |
| Differences in Sentencing Outcomes 455 | Law on the Books: Expanded Opportunity to |
| Imbalance Versus Discrimination 455 | Appeal Criminal Convictions 477 |

Law in Action: Defendants Rarely Win on Appeal 478

Postconviction Review 479

How Postconviction Remedies Differ from Appeals 479

CASE CLOSE-UP House v. Bell and Federal Court Scrutiny of State Death Row Inmates 480

Judicial Expansion and Contraction of *Habeas* Access for State Prisoners 481 Congress Greatly Restricts *Habeas* Access

COURTS, CONTROVERSY, & THE ADMINISTRATION

OF JUSTICE Should Federal Courthouse Doors Be Closed to State Prisoners? 482

Habeas Corpus Relief for Federal Prisoners 484

Wrongful Convictions 484

in 1996 481

How Many Wrongful Convictions Are There? 485

DNA Exonerations 485 Other Exonerations 485

Why Do Wrongful Convictions Occur? 486 Mistaken Eyewitness Identifications 486

Improper Forensic Evidence 486 False Confessions 487

Unreliable Informants 487

Tunnel Vision and Misconduct by Justice

Professionals 487

Inadequate Defense Representation 488 Reducing Wrongful Convictions 488

State Courts of Last Resort 489

Law on the Books: State High Courts and Discretionary Dockets 489

Law in Action: State High Courts

as Policymakers 490

Law in Controversy: State High Courts and Death

Penalty Cases 490

The U.S. Supreme Court and Criminal Justice Policy 491

The Warren Court (1953–1969) 491

The Burger Court (1969–1986) 492

The Rehnquist Court (1986–2005) 492

The Roberts Court (2005–) 493

The Supreme Court in Broad Perspective 495

Conclusion 495

Chapter Review 496

Critical Thinking Questions 497

Key Terms 497

For Further Reading 498

APPENDIX A

Overview of the Constitution of the United States 500

APPENDIX B

Constitution of the United States 504

APPENDIX C

Legal Reasoning 515

Glossary 525

References 540

Case Index 597

Index 602