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LAW ENFORCEMENT, COURTS, AND THE JUSTICE SYSTEM

Richard Sutch

Law enforcement and the administration of justice take place at all three levels of government – federal, state, and local – and involve all three branches of government – executive, legislative, and judicial. Federal and state legislatures and local governments pass laws that make certain behavior illegal (such as child employment)

and that compel certain other behavior (such as child school attendance). The executive branch of government is responsible for the management of law enforcement agencies, prosecuting attorneys, and penal institutions. The judicial branch embraces a system of courts that try to decide the outcomes of cases brought before them. The executive branch also has the authority to pardon convicted criminals or to reduce their sentences.

Law Enforcement

Disincentives to break the law are, for the most part, inherent in the law-making process. The laws themselves commonly prescribe the punishment for those convicted of breaking the law, although the discretion left to prosecutors and judges is generally quite broad. The number of police officers, the resources provided to law enforcement and the prosecutors, and the capacity of the criminal justice system all influence the risk that lawbreakers will be caught, convicted, and punished. There are also extra-legal disincentives to engage in criminal activity. Criminals surprised in the act may be injured or killed by private citizens or police officers. It is sometimes argued that the right of Americans to own firearms is itself deterrence to criminal activity (see Tables Ec1127–1158).

Statutes passed by Congress or state legislatures and ordinances – laws passed by local governments – specify whether a violation is subject to criminal or civil penalties. Criminal acts are investigated by the police. The accused is subject to arrest and, if found guilty, may be punished by fines, imprisonment, or both. By contrast, in the case of a breach of civil law, the injured party is compelled to bring a suit in a court. The defendant in a civil case, if the judgment is unfavorable, may be fined or compelled to make restitution but cannot be imprisoned.

Criminal law enforcement can be divided into three parts: investigation of crimes and arrests of persons suspected of committing them, prosecution of those charged with crime, and punishment or treatment of persons convicted of crime. The first function is the responsibility of law enforcement agencies (police departments, sheriffs' offices, and so forth). Prosecutors, advised by grand juries, are responsible for charging and trying in court those accused of breaking the law. To be convicted of breaking a criminal law, it must be established that the defendant intended to act unlawfully. After the defendant is convicted, the courts set the punishment and other conditions that must be met. If punishment entails incarceration or execution, the penal system carries out the court's orders. A probation system oversees any court-ordered constraints on activities on those released from or excused from imprisonment.

Civil law is governed by the American common law system, under which enforcement is initiated when the aggrieved party files suit in court. The complaining party, the plaintiff, has the burden of demonstrating that the claim is legitimate. Typically, such cases involve a dispute over property rights, breach of contract, or violation of tort law. Disputes over family issues, such as divorce and child custody, are also subject to civil procedures. The plaintiff formally seeks a judicial resolution of his or her claims against the defending party, although the majority of cases are settled by negotiation before trial. In civil law the losing party might be held responsible even if the consequences of the action were unintentional. For example, one might be financially responsible for damage caused by an accident.

Each state has its own criminal and civil laws, though there are substantial similarities across jurisdictions. Many of the states' civil codes are adapted from model statutes. Similarly, even though the organization, methods of finance, and procedural rules may vary among justice systems, they have much in common with one another. Within each state, the enforcement of the criminal law is predominantly the responsibility of local agencies. Police departments, prosecutors, and courts are in most instances either municipal or county agencies. To a large extent, even the correctional processes, such as probation and misdemeanor imprisonment, are functions administered by local authorities. Direct state responsibility is largely confined to providing penal institutions for those offenders convicted and committed to long-term imprisonment. Data on law enforcement officers are presented in Table Ec1353–1355.

Courts

The bulk of civil and criminal litigation in the country is commenced and determined in the various state and local courts. Only when the U.S. Constitution and acts of Congress specifically confer jurisdiction upon the federal courts may civil or criminal litigation be heard and decided by them. Generally, the federal courts have jurisdiction over the following types of cases: suits or proceedings by or against the United States; civil actions between private parties arising under the Constitution, laws, or treaties of the United States; civil actions between private litigants who are citizens of different states; civil cases involving admiralty, maritime, or prize jurisdiction; and all matters in bankruptcy.

There are several types of courts with varying degrees of legal jurisdiction. These jurisdictions include original, appellate, general, and limited or special. A court of original jurisdiction is one having the authority initially to try a case and pass judgment on the law and the facts; a court of appellate jurisdiction is one with the legal authority to review cases and hear appeals; a court of general jurisdiction is a trial court of unlimited original jurisdiction in civil or criminal cases (also called a major trial court); a court of limited or special jurisdiction is a trial court with legal authority over only a particular class of cases, such as probate, juvenile, or traffic cases.

The federal courts of original jurisdiction are known as the U.S. district courts. One or more of these courts is established in every state, and one each is located in Puerto Rico, the Virgin Islands, and Guam. Appeals from the district courts are taken to intermediate appellate courts, of which there are eleven, known as U.S. courts of appeals. The Supreme Court of the United States is the final and highest appellate court in the federal system of courts. Comprehensive information on the business of the federal courts is collected by the Administrative Office of the U.S. Courts and is published in the *Annual Report of the Director* and in *Juror Utilization in United States Courts*. Statistics on the caseload of the federal courts is available annually since 1940.

Statistics on state court cases and the outcome of prosecutions are incomplete for the country as a whole, although data are available for many states individually. The only national compilations of such statistics were made by the Census Bureau for 1932–1945 covering a maximum of thirty-two states and by the Bureau of Justice Statistics for 1986, 1988, 1990, and 1992 based on a nationally representative sample survey (see Tables Ec1159–1352).

Correctional Institutions and Prisoners

Penal institutions include jails, state and federal prisons, and various juvenile facilities. A jail is a facility to hold persons pending adjudication of their case or to incarcerate persons after conviction for a period of one year or less. Jails are typically operated by local law enforcement agencies. A prison is a confinement facility with authority over adults sentenced to imprisonment for a period longer than one year. State or federal authorities typically operate prisons. Juvenile residence facilities have a variety of names

including reformatories, correctional facilities, and detention centers. Some states maintain state hospitals for the criminally insane. Persons under care or custody in institutions at the time of the census enumeration are classified as inmates of the institution regardless of their length of stay in the place and regardless of the number of people there. In the Bureau of Census classification, institutions are a subcategory of group quarters (see Chapter Ae). Incarceration statistics are presented in Tables Ec298–327 and Ec358–425. Data on executions are presented in Table Ec343–357.