CHAPTER 1

Introduction to Criminal Justice in Canada

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This chapter provides context for the rest of the textbook. It begins by noting two models of criminal justice and then reviews core objectives and principles of criminal justice. These principles guide the professionals who operate the criminal justice system. Since it is important that the principles and practice of criminal justice are supported by the community, throughout the chapter periodic reference is made to surveys that explore the views of the public. Although an academic by profession, Julian Roberts has worked in Canadian prisons, for the federal Department of Justice, and with victim advocacy groups, as well as having served as an expert witness in criminal proceedings.

Criminal justice in Canada—as elsewhere—involves a complex system of checks and balances in which responsibility for a criminal case is divided among many decision-makers. The justice system is complex because it must respond to a wide diversity of criminal behaviour. If crime comprised only a limited number of proscribed acts, the criminal justice system (CJS) could adopt a uniform response. But criminal behaviour is diverse, and the system needs to vary its responses accordingly. The CJS must respond to cases of premeditated murder, minor acts of vandalism or shoplifting, and all forms of offending between these extremes. In addition, even if people have been convicted of the same category of crime, no two offenders are ever alike. The criminal law distinguishes between offenders on the basis of their degree of culpability or blameworthiness. For example, people who intend harm are considered more blameworthy than those who inflict criminal harm through criminal negligence. Two people convicted of burglary may have very different backgrounds. One may be more blameworthy or more likely to reoffend than the other. Consider a case of break-and-enter in which one offender is 45 years old and has six previous convictions for breaking into houses (as well as other crimes), while his co-accused is 18 years old with no previous convictions.

Even if they have committed the crime together, their life experiences and current circumstances are very different, and it is appropriate for the justice system to treat them differently. The older offender appears to be a professional burglar, while the younger individual may simply have made a single bad decision.

Adversarial and Inquisitorial Systems of Justice

CJSs vary widely but generally fall under one of two contrasting models: the *adversarial model* and the *inquisitorial model*. Canada operates an adversarial model. An adversarial criminal justice proceeding involves two parties: the state (represented by a prosecutor) and the defendant. The person accused of a crime is usually represented by a lawyer, either their own or one appointed by the state. In recent years, with cutbacks to legal aid in many countries, an increasing number of defendants elect to represent themselves without a lawyer. This decision is regrettable; the consequences of a criminal conviction are often so significant that defendants should always have the benefit of professional advice. For example, some countries bar entry to foreign visitors who have a prior conviction.

If the accused denies the charge, a trial will be held where the two adversaries present their case. The presiding judge will seldom intervene as the parties present their case, interrupting the proceedings only if there is a danger of injustice. This model is followed in the common law world, which includes all English-speaking nations, particularly commonwealth countries.

In contrast, the inquisitorial model relies on an investigating judge who launches the investigation, interviews the witnesses, and eventually conducts the trial. Most European countries, such as Germany, France, and Italy, follow this model. In France, the investigating and presiding judge is called the *juge d'instruction*. Another way of distinguishing the two systems is to see the adversarial system as "lawyer led"—the course of the case is determined by the actions of the two parties: the state prosecutor and the lawyer for the accused. In contrast, the inquisitorial model is "judge led," with developments unfolding according to the judge's directions.

Is one model of criminal justice superior? It is difficult to say: comparative research suggests that the adversarial model is better at uncovering the facts about the crime. The adversarial model also has more protections for the person accused of a crime, while the inquisitorial model assumes that the judge will act appropriately and that such protections are less necessary. Litigants—people going through the system as defendants facing a charge—seem to prefer the adversarial model, but no definitive comparison of the two systems of criminal justice has been conducted. However, there are costs associated with the adversarial approach, not least of which is the diminished role of the crime victim.

Victims play a greater role in the inquisitorial system of justice. Adversarial justice has long been criticized for ignoring the interests of the victim, although victims now have more rights at, and influence over, a criminal prosecution in an adversarial system of justice. Finally, it would be wrong to assume that adversarial justice is fixed in time and across jurisdictions. Criminal justice varies significantly across different Western nations. It has evolved greatly over the centuries and continues to evolve. The adversarial trial in particular has changed; Western criminal justice has become less adversarial. The victim now has more influence, and in this sense, the adversarial CJS has become more like the inquisitorial system.

Models of Criminal Justice: Crime Control and Due Process

Before discussing the purposes and principles of criminal justice in Canada, we should note an important conceptual distinction. Two competing models underlie Western CJSs. These are closely associated with the writings of Herbert Packer, who many years ago employed the terms "crime control" and "due process" to distinguish the two approaches to criminal justice (Packer 1968).

As the name implies, the crime control model stresses the importance of controlling crime and endorses providing criminal justice professionals with considerable powers for responding to crime. For example, crime control advocates favour giving the police wide powers to search suspects, enter residences, and detain persons accused of a crime. In contrast, the due process model limits the powers of the CJS to investigate and prosecute accused persons. Due process advocates argue that if the state—which has unlimited resources to prosecute suspects—is not subject to some limits, society will become intolerable as people will be subjected to constant surveillance and police interventions. For this reason, specific rights exist that must be respected by the police and indeed by all state actors in the CJS.

How are these limits on the powers of the state established? One example is that police officers cannot stop and search a person without reasonable grounds for doing so. In these (and many other) ways, the due process model prevents the state from having unlimited power over the lives of suspects and accused persons. The due process model is therefore more concerned with protecting the rights of accused persons and following legal procedure.

The two models differ in their concern for efficiency. Crime control advocates pursue the goal of preventing crime in the most efficient way—they favour the speedy resolution of cases without trials. One way of achieving this is by offering defendants great incentives to plead guilty and forgo the time and expense of a trial. Due process adherents worry that these incentives may induce some defendants to plead guilty even when they have a legal defence to the charge, just

to get a more lenient sentence. If this occurred, it would constitute an obvious miscarriage of justice.

For almost every important issue in criminal justice, one can find crime control and due process approaches. A CJS founded exclusively on due process or crime control principles would be troubling. Pursuing crime control to the total exclusion of due process considerations would inevitably increase the number of persons wrongfully convicted because due process procedural safeguards protect the innocent against false accusations and subsequent prosecution.

Limits on the Power of the CJS

The public generally regard the CJS as being responsible for controlling crime. This is understandable but fails to recognize important limits on the ability of the state to prevent crime. There are two reasons for these limits. First, a liberal society such as Canada has limits on the extent to which the state is allowed to intervene in the lives of its citizens. An authoritarian state would not be so restrained; its residents might be subject to random and unauthorized searches of their person and property simply because the police harbour some suspicions. If the state granted itself unlimited powers to investigate, prosecute, and punish suspected offenders, we might all be constantly under suspicion. If arrested, we would struggle to defend ourselves against the vast resources that the CJS can mobilize.

For example, the police are not allowed to eavesdrop on your phone conversations without prior authorization from a judge. Similarly, if you are charged with a criminal offence, the prosecutor cannot spring the case against you on the first day of trial: you (and your lawyer) need to know the case against you in advance. This is known as "disclosure." In this way, you can prepare your defence or have sufficient awareness of the Crown's case to decide whether to plead guilty. If brought to trial, you cannot be compelled to testify against your will. In addition, the Crown (representing the state) must share all relevant evidence against the defendant with their lawyer. This duty to disclose is grounded in the accused's right to make a full answer and defence to the charge and has been strongly endorsed by the Supreme Court of Canada (see *R v Stinchcombe* 1991).

The standard of proof is another important protection against state power. At trial, the prosecution has the burden of proving each element of the offence "beyond a reasonable doubt." In addition, the state must, for most crimes, prove that the accused *intended* to commit the offence.

These limits on the powers of criminal justice professionals are due process protections. The state should prosecute only in accordance with the principles of due process. If CJS professionals such as the police violate these principles, the court will intervene. For example, imagine that following an unauthorized search

of your home, the police find evidence that is then used to prosecute you. If the court accepts that the search was illegal, the evidence will normally be excluded. If that is the only evidence against you, the court will order an end to the state's prosecution. Even if the evidence may conclusively demonstrate that you have committed a crime, if it was illegally gathered, it will not be admissible.

However, a system that takes due process limits to the extreme would also result in a higher number of wrongful acquittals: guilty people would evade punishment because the police would always be hampered in their search for incriminating evidence. For this reason, the Canadian justice system has elements of both perspectives.

A Question of Balance

Balance is the key consideration in criminal justice in Canada and other countries. The justice system must weigh the interests of the suspect, defendant, or offender against the interests of society. The victim impact statement (VIS) at sentencing is a good example. Crime victims may depose a VIS to assist a court at sentencing. This right is now a part of the *Canadian Victims Bill of Rights* (2015). The VIS documents the effect of the crime on the victim and the victim's family. It provides the court with a unique source of information about the offence from the person most directly affected: the crime victim. Yet if victims were allowed to say anything about the offender or make an emotional appeal for the court to impose a particular sentence (as is the case in many US jurisdictions), sentencing would become unfairly tilted toward the victim. The sentencing process would lose balance. For this reason, the VIS restricts victims to documenting the impact of the crime, and they are prevented from recommending a sentence to the court or commenting on the offender (Roberts 2012).

Criminal proceedings typically begin when a victim reports a crime to the police, yet this does not mean that the CJS is exclusively (or even primarily) about victim welfare. Politicians talk about the victim being "at the heart of the justice system," but this is rhetoric; victims have many rights and are entitled to a range of services, but a criminal prosecution involves only two parties: the state and the defendant. As a case moves through the criminal process—from arrest through to trial and the imposition of a sentence (if the defendant is convicted)—many decisions will be made. The professionals making these decisions balance the interests of the victim, the due process rights of the defendant, and the broader public interest, as well as considerations of cost-effectiveness. Some agencies associated with criminal justice (such as Victim Witness Assistance programs) are clearly victim oriented, but the system as a whole has multiple (and potentially conflicting) objectives.

Even a balanced approach can result in miscarriages of justice. Wrongful convictions occur, resulting in the imprisonment of innocent people, sometimes for many years (Roach 2023). The public are aware of the importance of this aspect of criminal justice. When asked to identify important objectives for the CJS, reducing the chances of convicting an innocent person was identified as important by 83 percent of a national sample (Department of Justice Canada 2017, 29).

The Supreme Court of Canada is the ultimate arbiter of conflicts between the two models of criminal justice. Decisions of the Supreme Court are binding upon Parliament and all of the courts in Canada. The Supreme Court hears arguments regarding the constitutionality of specific pieces of criminal justice legislation and decides whether a particular law is consistent with the rights guaranteed by the *Canadian Charter of Rights and Freedoms* (1982; the Charter). A law that goes too far in the direction of controlling crime may violate one of the provisions of the Charter. (The impact of the Charter on criminal justice is discussed in Chapter 2.)

The Primary Objectives of Criminal Justice: Punishment and Prevention

Cross-cutting the models of criminal justice are two competing objectives: *punishment* and *prevention*. The CJS attempts to prevent crime, but when prevention fails, offenders are punished. As with the models of justice, these perspectives can also conflict. The best way to prevent crime may sometimes mean withholding punishment. The treatment of young offenders offers a good example.

Young people lack the life experience and the moral and cognitive development of adults. As a consequence, they may be less able to comply with the law. For many young people, low-level offending occurs during a phase in their life; when this period passes, most young offenders cease to offend. This can be seen in the well-known age-crime curve: the incidence of offending rises sharply in the late teens and then drops off equally steeply. Many young people who break the law will do so once or twice and then never again. The state should be slow to punish these individuals because a conviction, even in youth court, can make matters worse. It may be more effective (and much cheaper) to divert these cases away from the youth courts and hold the offenders accountable in some other way. Punishing young offenders by putting them through youth court and ultimately imposing a punishment under the *Youth Criminal Justice Act* (2002) may satisfy society's desire to see offenders punished, but it will often be more likely than diversion to result in reoffending. Research in other countries has shown that contact with youth courts makes young offenders more, not less, likely to reoffend (McAra and McVie 2007). For this reason, youth justice systems around the world, including Canada, treat young offenders differently from adult offenders, often through the use of warnings or cautions (Alain, Corrado, and Reid 2016).

Prevention is preferable to punishment. Crime prevention involves far more than the CJS; indeed, preventing crime through criminal justice alone is a policy doomed to fail. Many agencies and systems outside of the CJS contribute to crime prevention (Tilley and Sidebottom 2017). Mental health services, school programs, and community agencies all play a key role in preventing crime. Despite their importance, prevention strategies generally take a back seat to punishment as a way of preventing crime. Courts and prisons account for a much larger slice of the criminal justice budget than crime prevention programs, yet community-based prevention programs offer better value for money in terms of the volume of crimes prevented. Crime prevention initiatives that improve social conditions or increase employment opportunities prevent offending more effectively than the imposition of prison sentences on those who are prosecuted and convicted.

Crime prevention assumes many forms. Situational crime prevention is perhaps the most well known and effective. There are three kinds of situational crime prevention. One involves *increasing the effort* that offenders must spend to commit a crime. Steering wheel locks, enhanced security barriers and sophisticated locks for property, and gun control that involves time-consuming registration are examples of this form of crime prevention. *Increasing the risks* of detection is a second approach. More police patrols, more frequent or intrusive searches of persons at border controls, and enhanced baggage screening are all strategies that raise the likelihood of apprehending an offender. Finally, many businesses have *reduced the rewards* gained by criminal behaviour by reducing the amount of cash or valuables held in a facility.

The public are often described as wanting simply to punish offenders. However, polls reveal that there is widespread support for crime prevention. In fact, given a choice between punishment and prevention, Canadians have always preferred prevention. Surveys have asked respondents to choose between two responses to crime: punishment or prevention. A survey reported by Focus Canada (2014) found that almost two-thirds of the Canadian public believed that the emphasis should be on prevention and not punishment. A nationwide survey in 2017 asked Canadians to rank a number of goals. The top three goals were treating everyone fairly, preventing crime, and reducing the chances of convicting an innocent person (Department of Justice Canada 2017, 34). Finally, this survey also revealed that prevention headed the list of spending priorities for the CJS. Spending money on prisons attracted the lowest level of public support (Department of Justice Canada 2017, 82).

Principles of Criminal Justice

Beyond the models and objectives of criminal justice, several key principles guide the decision-making of criminal justice professionals. Let's take the principle of *restraint*. The idea here is that the CJS is a last resort and should be involved

only when lesser, noncriminal responses have failed or are inappropriate. This principle of restraint applies throughout the CJS. Starting with the legislature, Parliament should criminalize only conduct that is sufficiently serious as to justify the imposition of criminal sanctions. Legal philosophers cite the *harm* principle to guide the decision as to whether a given act should be designated a crime (see Husak 2008). The idea is that conduct should not be criminalized unless the act is harmful or has the potential to cause harm. Theft creates harm to the owner of the property stolen. Being rude to someone in public is wrong but, in most cases, falls short of being sufficiently wrongful or harmful to justify a crime of "being rude in public."

The restraint principle guides all criminal justice interventions; they should be the minimal response necessary. This applies to all of the professionals in the system, including police, prosecutors, judges, and parole boards. If a police warning or caution is sufficient to make the offender desist, police should not charge them with an offence. Similarly, prosecutors should not prosecute *every* allegation of an offence; they should launch a prosecution only when it is in the public interest and when there is sufficient evidence to justify a prosecution. As for sentencing, if a fine is a sufficient punishment for the crime, the court should not send the offender to prison. If a two-year sentence is sufficient to denounce the crime and prevent the offender from reoffending, the sentence should not exceed two years. The state should be restrained in its use of the criminal sanction in recognition of the impact that criminal prosecution and punishment (particularly imprisonment) can have on the lives of defendants and offenders.

Another principle may be the most important of all. Its origins can be found in the Magna Carta, the great legal document from 1215. In determining the level of state intervention and punishment, the CJS should be guided by the principle of *proportionality*. This simply means that the severity of the criminal justice response should increase as the crime becomes more serious and as the offender is deemed more blameworthy. This guides the exercise of discretion by police, prosecutors, judges, and parole boards. This principle is most important at sentencing. In fact, Parliament has codified the principle in section 718.1 of the *Criminal Code* (1985): "A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender" (see also Cole and Roberts 2020). Sentence severity should rise in proportion to the seriousness of the crime and the extent to which the offender is responsible for that crime.

Public Attitudes

The public support these principles of justice. Let's start with *restraint*. Research by the federal Department of Justice found significant public support for diversion—the process by which an accused person is held accountable without having

to go through a criminal trial. Diversion is consistent with the restraint principle because we should prosecute in the courts only if some form of diversion program would fail to address the problem. Diversion options include community service, mediation, programs for counselling or treatment, and victim–offender reconciliation programs. Fully 80 percent of Canadians supported the use of diversion or other alternatives to the CJS (Department of Justice Canada 2018, 7). Support for diversion was greatest for persons accused of nonviolent crimes. Respondents were asked about an offender convicted of drug trafficking who had been selling some of her prescription opioids. The woman had been struggling with prescription drug misuse for some time and had two children. Given a choice between sending this defendant to court or diverting her into a specialized rehabilitative program, most respondents (two-thirds) favoured diversion (Department of Justice Canada 2018, 28).

The same is true for the principle of *proportionality*. Surveys of the public have demonstrated that the public support the application of this principle at sentencing. Indeed, at sentencing, penal restraint means using harsh punishments sparingly and reserving prison for only the most serious crimes. This is reflected in section 718.2(d) of the *Criminal Code*, which instructs courts that "an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances." Here too the public agree. Approximately two-thirds of Canadians agreed that incarceration should be used only for those committing serious crimes (Department of Justice Canada 2017, 55). The same survey showed that Canadians feel the system is failing to respect this principle: most respondents agreed that too many people are in prison (Department of Justice Canada 2017, 55).

Discretion in Criminal Justice Decision-Making

The most important element of criminal justice is the discretion that professionals exercise. This is a finely balanced issue, like many others in the field of criminal justice. Too much discretion increases the risk of discrimination and disparity of treatment; criminal justice professionals may favour people who seem sympathetic. Judges who have wide discretion and little guidance as to how to exercise that discretion may impose sentences that vary greatly, as evidenced by research on courts in Canada (Palys and Divorski 2004). On the other hand, when discretion is removed entirely, another form of injustice occurs.

Mandatory sentencing laws are a good example. These laws, which have proliferated across the United States and other nations, require judges to impose the same sentence on all offenders convicted of a particular crime regardless of their individual circumstances. Canada operates a number of mandatory sentences, and these have caused considerable injustice over the years, particularly with respect

to Indigenous people in Canada. Mandatory minimum sentences are more likely to affect defendants of Indigenous status, which contributes to the high numbers of Indigenous people in Canada's prisons. A just system will provide guidance for all of the actors in the criminal process—including police, prosecutors, judges, probation officers, and parole boards—while allowing them the discretion to individualize their decisions to reflect the characteristics of the individuals caught up in the CJS. The Canadian public support the existence of discretion. A poll conducted in 2017 found that almost three-quarters of respondents wanted judges to have the flexibility to decide sentences without a mandatory law. Only 4 percent endorsed the use of mandatory sentences that impose the same punishment on all offenders (Department of Justice Canada 2018, 23).

Criminal Injustice

Injustice occurs in many ways. For example, innocent people may be charged and even convicted of crimes they did not commit (wrongful convictions) or guilty parties may evade punishment entirely (wrongful acquittals) (see Roach 2023; Chapter 21 of this textbook). Furthermore, offenders may be punished more or less than they deserve (over- or under-punishment) or defendants from some racial or ethnic backgrounds may be treated more harshly (discrimination). Wrongful convictions have generally been considered the worst form of injustice: the prospect of an innocent person languishing in prison seems worse to most people than the existence of an offender remaining at liberty for a crime.

People of colour, Indigenous people, and persons from lower socio-economic strata of society are all more likely to be drawn into the CJS (Owusu-Bempah and Wortley 2014). This is true in all Western systems of criminal justice, not just in Canada (Tonry 1997). Discrimination is one of the worst forms of criminal injustice. Canadians are particularly concerned about fairness. When asked to rank the goals of criminal justice, "treating everyone fairly" was ranked highest (Department of Justice Canada 2018, 34).

Members of minority groups account for disproportionate numbers in criminal justice statistics; this is true around the world. The group is usually a visible or ethnic minority. In Canada, Indigenous Peoples are over-represented in criminal justice statistics, particularly imprisonment statistics. One explanation is that these groups have suffered economic and social exclusion; their social circumstances have created the conditions for crime. Yet higher rates of offending are only part of the story.

Differential treatment at various stages of the CJS also plays a role. For example, the police are more likely to concentrate their resources in neighbourhoods with high crime rates. If these areas also have a higher proportion of minority residents, the police will stop—and arrest—more minority citizens. A

neighbourhood generates crime through a complex set of reasons such as poverty, unemployment, and drug use. It then attracts more police attention, and the result is a higher rate of minorities entering the criminal justice statistics. Discrimination can take many forms: courts may imprison visible minorities at a higher rate or correctional staff may abuse visible minority prisoners. Concern has long been expressed about the way the CJS treats Black and ethnic minorities (Commission on Systemic Racism in the Ontario Criminal Justice System 1995). We know less about sentencing visible minorities because the CJS does not routinely record the ethnicity of defendants.

The system also pays more attention to some forms of crime than others. In an ideal world, the CJS would concentrate its resources on the more serious crimes and the most dangerous offenders. The investment of time and resources would reflect the seriousness of the crime. In practice, certain forms of offending attract disproportionate attention from the CJS. Crimes generally come to the attention of the police and result in official action following a report by a victim. The consequence is that some crimes—for example, against those in institutions, isolated older adults, and the environment—are less likely to come to the attention of the CJS.

The Limits of Criminal Justice

Most people look to the CJS to reduce or prevent crime, yet the most important causes of crime, and the remedies for those causes, lie outside the scope of the system. Alcohol misuse is a prime example of a cause of crime that lies outside the scope of the CJS. A defence lawyer once remarked that if alcohol were prohibited, her practice would dry up overnight. She was right: alcohol is the single most important trigger for many forms of criminal behaviour. Some of this alcohol-fuelled criminality can be reduced through increased policing and by court-imposed restrictions on offenders convicted of alcohol-induced crimes. However, the solutions ultimately lie in better regulation of alcohol sales (including minimum pricing and discouraging incentives to over-consume), improved alcohol awareness education in schools, more sophisticated licensing hour arrangements, and other interventions that lie outside of the CJS. As a society, however, we tend to see crime and disorder as problems that can be solved by more police, more prosecutions, and harsher punishments. Again, the Canadian public appear aware of the limits of criminal justice and the importance of community-based solutions to the crime problem. Most people see greater focus on community-based programs as an effective way to prevent crime.

Problem-Solving Criminal Justice

The CJS is now recognizing the importance of addressing problems that give rise to crime, rather than just punishing people who break the law. Problem-solving courts are a good example. These attempt to address the causes of crime, as well as hold the offender accountable. Drug Treatment Courts process offenders who have addictions, with a view to resolving their drug dependencies, while Mental Health Courts deal with people caught up in the court system as a result of their mental health issues (Schneider 2020). In both contexts, the goal is to address the problems underlying the offending. The public see the benefits of this way of responding to crime. A nationwide survey found that approximately 60 percent of the public viewed problem-solving courts as a method which should be promoted, and a similar percentage agreed that problem-solving courts can adequately hold people to account for their crimes (Department of Justice Canada 2018, 34).

Restorative Justice

Finally, while this textbook explores *criminal* justice, it is important not to lose sight of the other ways of addressing conflicts and wrongs in society. Many countries, including Canada, also promote *restorative* justice. This alternative seeks to reconcile victims and offenders and to promote reparation and restoration, rather than punishment. In 1996, the federal Parliament acknowledged the importance of this approach when it included the following objective of sentencing in section 718(f) of the *Criminal Code*: "to promote a sense of responsibility in offenders, and acknowledgement of the harm done to victims or to the community." Restorative justice initiatives now exist and interact with the CJS across Canada, demonstrating that justice involves much more than the police, the courts, and the correctional system (see Correctional Service of Canada 2016; Roach 2012).

Further Reading

Barker, J., and S. Tavcer, eds. 2022. *Women and the Criminal Justice System: A Canadian Perspective*. Toronto: Emond.

Department of Justice Canada. 2020. *State of the Criminal Justice System: Focus on Women*. Ottawa: Government of Canada. https://www.justice.gc.ca/eng/cj-jp/state-etat/2021rpt-rap2021/pdf/SOCJS_2020_en.pdf.

Fairlie, J. 2021. *A Brief Introduction to Law in Canada*. Toronto: Emond.

Griffiths, C. 2024. *Canadian Criminal Justice: A Primer*. 7th ed. Toronto: Emond.

Hough, A., and J.V. Roberts. 2023. "Public Opinion, Crime, and Criminal Justice." In *Oxford Handbook of Criminology*. 7th ed., edited by S. Maruna, A. Liebling, and L. McAra, 223–42. Oxford: Oxford University Press.

Maruna, S., A. Liebling, and L. McAra, eds. 2023. *Oxford Handbook of Criminology*. 7th ed. Oxford: Oxford University Press.

Roberts, J.V. 2025. *Criminal Justice: A Very Short Introduction*. 2nd ed. Oxford: Oxford University Press.

References

Alain, M., R.R. Corrado, and S. Reid, eds. 2016. *Implementing and Working with the Youth Criminal Justice Act Across Canada*. Toronto: University of Toronto Press.

Canadian Charter of Rights and Freedoms, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11.

Canadian Victims Bill of Rights, SC 2015, c. 13, s. 2.

Cole, D., and J.V. Roberts. 2020. "Introducing Sentencing in Canada." In *Sentencing in Canada: Essays in Law, Policy, and Practice*, edited by D. Cole and J.V. Roberts, 1–27. Toronto: Irwin Law.

Commission on Systemic Racism in the Ontario Criminal Justice System. 1995. *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Co-chairs D. Cole and M. Gittens). Toronto: King's Printer for Ontario.

Correctional Service of Canada. 2016. *Restorative Justice in the Canadian Criminal Justice Sector*. Ottawa: Government of Canada. https://www.csc-scc.gc.ca/restorative-justice/003005-4012-eng.shtml.

Criminal Code, RSC 1985, c. C-46, as amended.

Department of Justice Canada. 2017. *National Justice Survey: Canada's Criminal Justice System*. Ottawa: Department of Justice Canada.

Department of Justice Canada. 2018. *National Justice Survey: Canada's Criminal Justice System*. Ottawa: Department of Justice Canada.

Focus Canada. 2014. *Highlights on Crime and Justice*. Toronto: Environics Analytics.

Husak, D. 2008. *Overcriminalization: The Limits of the Criminal Law*. New York: Oxford University Press.

McAra, L., and S. McVie. 2007. "Youth Justice? The Impact of System Contact on Patterns of Desistance from Offending." *European Journal of Criminology* 4 (2): 315–45.

Owusu-Bempah, A., and S. Wortley. 2014. "Race, Crime, and Criminal Justice in Canada." In *The Oxford Handbook of Ethnicity, Crime, and Immigration*, edited by S. Bucerius and M. Tonry, 281–320. Chicago: University of Chicago Press.

Packer, H. 1968. *The Limits of the Criminal Sanction*. Stanford: Stanford University Press.

Palys, T., and S. Divorski. 2004. "Explaining Sentence Disparity." In *Criminal Justice in Canada*. 2nd ed., edited by J.V. Roberts and M. Grossman, 70–76. Toronto: Nelson.

Roach, K. 2012. "The Institutionalisation of Restorative Justice in Canada: Effective Reform or Limited and Limiting Add-On?" In *Institutionalising Restorative Justice*, edited by I. Aertsen, T. Daems, and L. Robert, 167–93. New York: Routledge.

Roach, K. 2023. *Wrongfully Convicted*. Toronto: Simon and Schuster.

Roberts, J.V. 2012. "Crime Victims, Sentencing and Release from Prison." In *The Oxford Handbook of Sentencing and Corrections*, edited by K. Reitz and J. Petersilia, 104–26. New York: Oxford University Press.

Schneider, R. 2020. "Sentencing Mentally Disordered Offenders." In *Sentencing in Canada*, edited by D. Cole and J.V. Roberts, 113–28. Toronto: Irwin Law.

Tilley, N., and A. Sidebottom. 2017. *Handbook of Crime Prevention and Public Safety*. London: Routledge.

Tonry, M., ed. 1997. *Ethnicity, Crime, and Immigration: Comparative and Cross-National Perspectives*. Chicago: University of Chicago Press.

Youth Criminal Justice Act, SC 2002, c. 1.

Cases Cited

R v Stinchcombe, [1991] 3 SCR 326.