

## AMERICAN CRIMINAL JUSTICE

American criminal justice may be one of the best known—and most influential—systems of criminal justice in the world, but also the least understood: Countless films and television series portray American police officers, prosecutors, and lawyers, but more than 95 percent of criminal matters result in guilty pleas, and trials are becoming vanishingly scarce as people accused of crimes choose to strike deals with increasingly powerful prosecutors. Sentencing “reform” has led to a burgeoning prison population that is by far the highest among economically advanced countries. Meanwhile, American prosecutors have gained increasing (and largely unchecked) power to apply US criminal laws to worldwide corporations and individuals with little or no connection with the country. *American Criminal Justice: An Introduction* provides a readable, comprehensive review of the American criminal process behind these and other problems.

Frederick T. Davis is Lecturer in Law at the School of Law, Columbia University, New York, where he teaches courses on comparative criminal procedures and cross-border criminal investigations. He was a federal prosecutor in the United States Attorney’s Office for the Southern District of New York, and served as law clerk to Henry J. Friendly, Chief Judge of the United States Court of Appeals for the Second Circuit, and Potter Stewart, Justice of the Supreme Court of the United States. He is a member of the bars of New York and Paris, is an elected fellow of the American College of Trial Lawyers and a life member of the American Law Institute, and was named a chevalier of the National Order of Merit of France. He lectures frequently at the Ecole Nationale de la Magistrature, Paris 2, and the Universiteit van Amsterdam, co-chairs the Business Crime Committee of the International Bar Association, and has served as a consultant to the prosecutors of the International Criminal Court and the International Criminal Tribunal for Rwanda.

# American Criminal Justice

**AN INTRODUCTION**

**Frederick T. Davis**



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*To Mary, who fights for justice around the world.*

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While this book owes much to many, two writers have played a role in its inspiration and deserve mention: one is a good friend; the other I have not met.

The publication in 2003 of *fuger en Amérique et en France* by Antoine Garapon, cowritten with Ionnis Papadopoulos, set a new standard for cross-cultural review of criminal procedures. The book, based in part on the authors spending significant time simply watching American criminal trials, sought not only to understand how US criminal procedures vary so tremendously from French (and other European) ones, but to identify the cultural roots that explain these differences. When I first met him, Antoine mentioned to me, “I am not really a lawyer or jurist; I am sort of an anthropologist of the law.” It has been my pleasure to pursue a number of joint projects with Antoine, who as executive director of the Institut des Hautes Etudes sur la Justice in Paris is a veritable one-person think tank on issues relating to criminal justice.

When I set about developing a course on comparative criminal procedures, which I have now taught at Columbia Law School and the University of Amsterdam, I discovered that the academic writing on the subject was (and remains) undeveloped. Among the exceptions to this sparse literature, the most important are the writings of Mirjan R. Damaška, now the Stirling Professor Emeritus at Yale Law School. Many of his major works date from the last century, but no one has captured more elegantly and usefully the many differences between the two great traditions associated with the “common law” of the United States and England and the largely code-based judicial systems of continental Europe.

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