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RECENT PUBLICATIONS

BEATING A RAP? DEFENDANTS FOUND INCOMPETENT TO STAND TRIAL. By Henry J. Steadman. Chicago and London: University of Chicago Press, 1979. Pp. xiii, 114.

In this book, Henry Steadman, Director of the Special Projects Research Unit of the New York State Department of Mental Hygiene, addresses the common suspicion that defense attorneys enable their clients to escape criminal charges by having the clients declared incompetent to stand trial. Such suspicion, he argues, results both from public confusion over the legal and psychiatric issues in a competency hearing and from a lack of understanding (even among experts) about the practical results that flow from a determination of incompetency.

The book, the first empirical study of this subject, is based on Steadman's 1972 field study of over 500 male defendants in New York felony cases who were found incompetent to stand trial. The author examines demographic profiles of the allegedly incompetent defendants, their prior police and mental hospitalization records, the length of their hospital stays, the environment of the hospitals to which they were committed, and the outcome of their criminal charges after hospitalization. The author then chronicles the defendants' return to the community, including statistics on subsequent arrest and mental hospitalization, based upon personal interviews with selected defendants and their families.

The author concludes that in general the experiences of defendants who are found incompetent are very similar to those of defendants who are never diverted from the criminal justice system. According to Steadman, incompetent defendants are simply serving their time in a different setting. Moreover, the author indicates that incompetent defendants who are returned to the community function about as well as ex-convicts, in that forty-four percent of those released from mental institutions are rearrested and forty-four percent are rehospitalized. Thus, the author's research challenges much conventional wisdom concerning incompetent defendants.

THE CRIMINAL JUSTICE SYSTEM AND ITS PSYCHOLOGY. By Alfred Cohn and Roy Udolf. New York: Van Nostrand Reinhold Co., 1979. Pp. ix, 345. \$17.95.

Noting that many professionals in the criminal justice system lack the multidisciplinary background necessary to understand its problems fully, the authors, Associate Professors of Psychology at

New College of Hofstra University with backgrounds in both psychology and the law, integrate legal and psychological principles involved in the criminal justice system to facilitate problem solving. The authors apply principles of learning, perception, and group functioning to specific problems faced by professionals in the areas of crime, law enforcement, and penology. The result is designed to satisfy the needs of lawyers, social scientists, and police officers in understanding the relationship between psychology and criminal justice.

Initially, an overview of the American legal system's history and structure is presented from both a psychological and a legal perspective, including the purposes and goals of the criminal justice system and the basic principles of substantive criminal law. The authors next examine the nature of criminals, victims, bystanders, and professionals in the criminal justice field. Noting that all types of individuals are potentially capable of criminal activity, the authors discuss a sampling of theories on the etiology of criminal behavior and the characteristics of offenders. They delve into the psychological make-up of victims and bystanders through a series of surveys which examine who the victims are, what factors determine whether the crime is reported, and what compels a bystander to act. Turning to professionals in the field, the authors detail methods used in training police, lawyers, psychologists, psychiatrists, and social workers, and examine how such professionals shape the actual structure and functioning of the criminal justice system.

Next, the authors detail the procedural stages of criminal justice from arrest to sentencing. Trial procedures are examined from the perspective of the rules of evidence, the relevant psychological techniques, and the research used in jury selection. Factors which affect jury deliberations such as witness reliability, argument effectiveness, and intraprofessional courtroom conflicts are explored. Turning to the final stages of the process, the authors discuss post-conviction procedures and problems with imprisonment. The last section features an exploration of psychotherapy, behavior modification, and professional ethics in the criminal context.

FOREIGN TRADE TAX HANDBOOK FOR MANUFACTURERS: HOW TO USE A DISC AND OTHER FORMS OF CORPORATIONS TO EXPORT AND TO OPERATE ABROAD MORE PROFITABLY. By Paul D. Seghers. New York: International Tax Institute, Inc., 1979. Pp. 171.

Paul Seghers, the president of the International Tax Institute, has prepared a concise tax guide for executives and tax advisers of small manufacturers that are engaged in or planning to engage in

export and business operations abroad. In a manner that is understandable to both laymen and tax practitioners, Seghers presents the steps that are currently necessary for a small manufacturer to obtain the maximum after-tax profit from foreign sales.

The first chapter contains a nontechnical overview of the principal features and some of the tax advantages of each of the corporate forms available to export operations. In chapter two the author explains, with the aid of examples, the steps that a manufacturer must take to use a DISC (Domestic International Sales Corporation) to postpone, without interest, the time for paying taxes on income resulting from export sales. Chapter three contains a detailed explanation of the special deduction and consequent reduced rate of taxation allowed a WHTC (Western Hemisphere Trade Corporation). In chapter four, the author explains how a domestic (United States) corporation, qualifying as a "U.S. Possession Corporation," may operate "tax free" in Puerto Rico and United States possessions other than the Virgin Islands. Chapter five contains a discussion of the tax advantages of using a CFC (Controlled Foreign Corporation) to manufacture abroad.

Chapters six through nine analyze the tax problems that commonly arise in connection with exports and business operations abroad, including foreign tax credits, intercompany pricing, determination of the source of income, and the tax effects of foreign exchange transactions. The final chapter contains a summary of the comparative tax advantages of the various corporate forms and methods described earlier in the book, including the DISC, "U.S. Possessions Corporation," and CFC. The volume concludes with two exhibits: a pro forma DISC franchise agreement, and the Internal Revenue Service form for election to be treated as a DISC.

LAW AND ORDER IN AMERICAN HISTORY. Edited by Joseph M. Hawes. Port Washington, N.Y.: Kennikat Press Corp., 1979. Pp. 184. \$15.00.

This work is premised on the belief that an understanding of history is necessary to comprehend the complexities of America's modern criminal justice system. To illustrate the interaction between the criminal justice system and society, the editor has compiled a series of readings which examine the components of the criminal justice system both historically and analytically. Joseph Hawes, an Associate Professor of History at Kansas State University, includes works by a sociologist, a criminologist, a political scientist and several historians in this anthology, in order to provide varied approaches.

The opening selection is an excerpt from Professor Lawrence Friedman's *History of American Law*, describing major changes in the content and application of American criminal statutes. Noting the efficacy of a system of checks and balances within the criminal justice system and the role of outside influences such as vigilante groups, Professor Friedman identifies the major trend in criminal law as the proliferation of statutes. Following the Friedman excerpt is a discussion of America's social order during the early national period. Raymond Mohl describes the sources of social conflict in American cities leading to the creation of a criminal justice system as we know it. In the third essay Joseph Hawes explores the development of America's first penitentiary system, outlining the competing approaches of the Auburn, New York, and Pennsylvania disciplinary systems to inmate control and convict rehabilitation.

Anthony Platt's history of American juvenile justice follows Hawes' discussion of the adult penal system. Asserting that the Progressive Era's child-saving reforms are erroneously viewed as humanitarian actions, Platt argues that the movement was really designed to achieve order, stability, and control within the existing class system. Platt finds many similarities between the child-saving movement and modern efforts to reform our juvenile justice system. A subsequent piece by Richard Brede discusses the role of citizen complainants in cases involving juveniles. When called upon to solve a social problem involving young people, Brede argues, officers often base the decision whether to make an arrest on the community's current definitions of deviant and criminal behavior.

A history of the movement to add policewomen to the nation's police departments is also included in this anthology. Samuel Walker notes that women have served as police officers since the early twentieth century, but have usually been assigned to clerical work or juvenile divisions. Proponents of restricting women to such duties have tradition on their side, Walker contends, but opponents point out that women can work within a police department without disrupting its operation.

An article by Dennis Smith explores the organization of police departments against the background of American society. Smith advocates decentralization of police administration and improvement of police-community relations. William Moore's discussion of the Kefauver Committee's report on organized crime follows. Moore rejects the Committee's conclusion that a nationwide crime syndicate called the "Mafia" operates in America, arguing that this myth has diverted public attention and energy away from local organized crime and corruption. The final selection is a critical survey of the

literature on the history of the American criminal justice system. Historian John Conley encourages students and scholars to undertake historical research that will increase understanding of criminal justice problems and suggest possible reforms.

LAW AND THE ARTS—ART AND THE LAW. Edited by Tem Horwitz. Chicago: Lawyers for the Creative Arts, 1979. Pp. x, 228. \$6.95 paper.

This anthology is a comprehensive handbook and sourcebook for literary, performing, and visual artists, craftspeople, arts attorneys, and arts administrators. Its nine essays reflect the nature and variety of legal problems that have surfaced during the past decade, which has witnessed a burgeoning interest in the arts and in arts organizations. The book is partially financed by grants from the National Endowment for the Arts, the Illinois Arts Council, and the Chicago Council on Fine Arts and purports to be a distillation of the experiences of the attorneys and staff of Lawyers for the Creative Arts.

In the first essay, "Writers and the Law," Jane Shay Lynch presents sections of the new copyright law that are important to writers and identifies problems that should be considered before a writer enters into a contractual relationship with a publisher. Jerome Wexler's essay, "An Agent Looks at Publishing the 'New Author,'" alerts a writer to the services he may expect from a literary agent.

"Performing Arts & the Law," by Thomas Leavens discusses performing arts unions, management and agency agreements, recording agreements, rights agreements, assignment of rights to performance royalties to ASCAP or BMI, copyright law pertaining to choreography, releases, and arbitration. This essay then examines the protectibility of the performing artist's personality, name, and right of publicity and concludes with financial planning information—tax shelters, pension retirement programs, and estate planning.

E. Leonard Rubin's "Film & Video & the Law" analyzes relevant copyright law and discusses the protection of authors' and composers' subsidiary rights in negotiations with movie and television companies. In "Visual Arts & the Law," Clarence Wilson, Jr. illuminates those sections of the copyright law pertinent to the visual artist and offers an overview of contract law concerning artist-gallery contractual relations, consignment agreements, and sales of artistic properties. Wilson concludes with tort and constitutional law considerations, an examination of tax law, and new state and

federal laws that affect the visual artist.

"Income Tax and Record Keeping for the Individual Artist," by Albert Kaplan, a certified public accountant, provides practical information for the artist as a businessperson and introduces simplified accounting procedures and forms. Vincent Tolve's "A Guide to Real Estate for the Artist" includes discussions of real and personal property concepts, types of business organization, legal aspects of real estate sales, and government regulation of property interests. The final essays, "Financial Management, Budgeting, and Bookkeeping" by Kaplan and Horwitz, and "Setting Up & Maintaining Not-for-Profit, Tax Exempt Corporations" by Leavens, survey a variety of legal problems confronted by arts administrators and arts organizations.

LETTERS OF LOUIS D. BRANDEIS. VOLUME V: 1921-1941. Edited by Melvin I. Urofsky and David W. Levy. Albany, N.Y.: State University of New York Press, 1978. Pp. xxix, 770. \$35.00.

This is the fifth and final volume of the letters of Louis Brandeis, which the State University of New York Press has compiled and published since 1971. The letters, written by Brandeis in a memorandum style complete with numbered paragraphs, read like the battle orders of a field general—enumerating jobs to be done, people to be contacted, facts to be checked—and testify to a life of action informed by a reformist sensibility and faith in the persuasive power of facts. For Brandeis, the letters indicate that ascension to the Supreme Court did not mean abdication of other more worldly responsibilities. The letters evince Brandeis' involvement in several extrajudicial projects, such as the University of Louisville in Kentucky, the Zionist movement, savings bank insurance, the Harvard Law School, the labor struggle, the editorial content of *The New Republic*, and New Deal policy.

Moreover, the letters to family members, especially to his brother and daughter, reveal a personal warmth and abiding involvement in the concerns of a very extended family. There is little introspection in these letters, however, with the result that readers will gain little insight, except by deduction, into the personal motivations behind Brandeis' commitments. Nor, except for a few asides in his correspondence with Felix Frankfurter, is there more than scant reference to Brandeis' work on the Court.

This volume, like the first four, is extensively annotated, including short biographies of the major figures involved in Brandeis' life and work as well as explanations of the issues with which Brandeis concerned himself. Volume V also features a cumulative index

for all five volumes, as well as several letters from the earlier periods that were uncovered too late to be incorporated into earlier volumes.

ONE MAN, ONE VOICE. By Charles Morgan, Jr. New York: Holt, Rinehart, and Winston, 1979. Pp. xi, 348. \$12.95.

Charles Morgan, Jr., one of the handful of white Southerners who actively supported the civil rights movement of the 1960s, recounts in *One Man, One Voice* the dramatic moments of a turbulent time in American history. Morgan first gained national prominence when he was forced to leave his native Birmingham, Alabama, in September 1963 after a speech before that city's Young Men's Business Club in which he blamed Birmingham's white middle class for giving tacit sanction to a church bombing that had, the day before, taken the lives of four black children. This book describes how "Chuck" Morgan, at the age of 33, left the Birmingham he described as a "dead city" to work for the American Civil Liberties Union, first in Atlanta and then as director of its Washington office until 1976, when his affection for then President-elect Jimmy Carter set him at odds with ACLU leaders. The book's title plays on the one man, one vote rationale with which the Supreme Court decided the reapportionment cases of the early 1960s, and Morgan emphasizes the strategies used, both in and out of the courthouse, in seeking and achieving a particular doctrinal result in the Court.

Morgan details his defense of Capt. Howard B. Levy, an Army doctor who was court martialed for refusing to teach his medical skills to Green Berets bound for combat duty in Vietnam. The author also surveys his controversial role as defense counsel for Julian Bond, when the Georgia legislature refused to seat the young Black representative because of his antiwar statements, and for Muhammed Ali, when his conscientious objection to the draft led to criminal prosecution. A substantial portion of Morgan's narrative, however, is devoted to a behind-the-scenes view of the Watergate break-in and cover-up. The author asserts that a high official of the Central Intelligence Agency helped uncover evidence to ensure President Nixon's downfall, and suggests that Howard Hughes was intimately involved. Morgan stresses CIA involvement in both the cover-up and the break-in at the office of Daniel Ellsberg's psychiatrist, and contends that the Watergate scandal was an extension of a Howard Hughes-CIA conspiratorial web.

Morgan denounces the "Northern liberals," including a CIA informer, who dominate the ACLU's inner circle. While characterizing his young friends as "bright" and his older ones as "brilliant," Morgan dismisses the civil rights establishment as "cynically prag-

matic sunshine liberals." The author similarly admits to bias and hostility concerning the rich and well-favored. For example, he originally resisted representing Dr. Levy because of a contempt for dermatologists, who in his view sought the most money for the least work and the least risk. After reviewing the ascents of several prominent political careers, Morgan concludes that many political careers are modeled on appearances and that few physically attractive people, like the very rich and the very bright, should be taken seriously.

Morgan also discusses, in a similar vein, the ethical problems inherent in the adversary system and is critical of attorneys who practice what he calls "Frankfurterism." Suggesting that the late Associate Justice Felix Frankfurter found logical and legal reasons for refusing to do the "right thing," Morgan looks toward the late Associate Justice Hugo Black, a fellow Alabamian, as a model for the attorney who seeks to change a conservative and cautious establishment by an aggressive defense of human rights.

Morgan has made his reputation by defending Blacks, the disenfranchised poor, and other minorities. Yet Morgan in 1979 also represented Sears, Roebuck and Company in its unsuccessful lawsuit to overturn federal regulations designed to protect Blacks and women from job discrimination. That representation, which caused considerable consternation in the liberal press, is not dealt with in this volume. *One Man, One Voice*, however, offers clues which might point to a shift in Morgan's attitude toward government involvement in a wide variety of matters.

THE REFORM OF FBI INTELLIGENCE OPERATIONS. By John T. Elliff. Princeton, N.J.: Princeton University Press, 1979. Pp. xi, 248. \$14.50.

Domestic violence and foreign espionage may constitute a serious threat to the security of the United States. Recent events and disclosures, however, point out the great risk in giving an agency such as the FBI near-limitless authority for gathering intelligence about terrorists and spies. Noting the findings and recommendations of post-Watergate inquiries into FBI operations and FBI and Justice Department responses to the pressures for reform, John Elliff analyzes the legal and social questions posed by the existence of a "security police" in a nation committed to constitutional government and the rule of law. Dr. Elliff, a professional staff member of the Select Committee on Intelligence of the U.S. Senate and former Associate Professor of Politics at Brandeis University, concludes that present restrictions on FBI activities are necessary, and that close supervision and control by the Attorney General will allow the

Bureau to operate effectively without wrongfully depriving persons of their rights.

The author's goal is to promote a more systematic understanding of the FBI's proper domestic security and foreign counterintelligence functions. Prior to 1972, he explains, the FBI and CIA had been acting on the assumption that because their work was so important to national security, they could disregard the normal legal rights of domestic groups. This assumption culminated in COINTELPRO, an FBI program of the 1960s that was designed to disrupt and discredit dissident antiwar and civil rights groups. Since the death of J. Edgar Hoover in 1972, the FBI has undergone a great deal of examination and change, and numerous FBI reforms premised upon the concept of accountability have been implemented. The author provides an in-depth analysis of these changes in the structure and policy framework of FBI operations, examines issues that he believes are not fully resolved by post-1972 reforms, and evaluates current standards and procedures for dealing with misconduct by FBI personnel. Dr. Elliff argues throughout that FBI intelligence programs are necessary to achieve important law enforcement and national security objectives, and can be carried out without violating constitutional rights.

Concerning FBI domestic security investigations, the author concludes that (1) the chance to prevent terrorism is a compelling law enforcement interest which justifies investigation of terrorist organizations; (2) investigation should be limited to groups with a proven propensity for committing acts of violence; and (3) the law requires special safeguards, such as approval by the Attorney General or by a court, on the use of informants and covert infiltration. As for foreign counterintelligence, Dr. Elliff proposes that (1) more leeway should be given to the FBI in handling foreign espionage investigations than in investigating domestic organizations; (2) investigation of American citizens, as opposed to agents of foreign nations, must be based on a reasonable suspicion that a subject is a conscious member of a hostile foreign intelligence network; and (3) FBI files should be used in federal employment decisions only for a small number of sensitive jobs.

