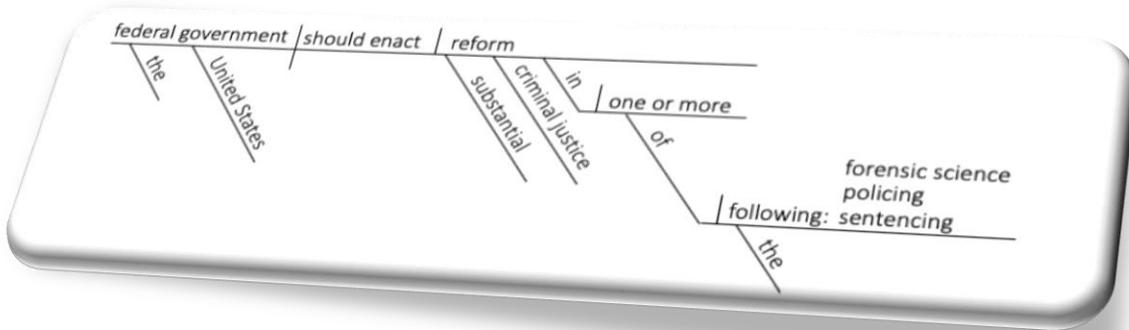


## DEFINITIONS OF TERMS ON THE CRIMINAL JUSTICE TOPIC

Dr. Rich Edwards  
Professor of Communication Studies  
Baylor University  
National Policy Topic 2020-21

The 2020-21 Interscholastic Debate Resolution: *The United States federal government should enact substantial criminal justice reform in the United States in one or more of the following: forensic science, policing, sentencing.*



The resolution on the criminal justice topic originated with a proposal submitted by Colton Gilbert of Little Rock Central High School in Little Rock, Arkansas. Mr. Colton and the members of the Topic Selection Committee Wording Committee jointly wrote a topic paragraph for inclusion on the ballot. The paragraph for the criminal justice topic follows:

TOPIC PARAGRAPH AS INCLUDED ON THE 2020-21 BALLOT: A useful index of the intent of the topic framers is provided by the paragraph which is sent along with the topic selection ballot. The authors of the topic proposal and the members of the Wording Committee jointly wrote this paragraph.

The paragraph on the ballot for the criminal justice topic follows:

The FIRST STEP Act was a bipartisan effort which made minor changes to the criminal justice system that didn't go far enough. What it did was spark a conversation which in turn produced a wealth of literature that would be ripe for debate. As the nation with the most incarcerated people per capita we have an obligation to find ways to reform our current system; this resolution offers students the opportunity to explore a plethora of options. Affirmatives can explore different ways to improve policing. These could include, but is not limited to, body cameras, increased community policing, instituting community review boards to investigate police misconduct or can overturn Supreme Court decisions that have increased protections for police officers. When seeking to address forensic science affirmatives can explore the accreditation standards for crime labs, change how evidence is handled, increase testing to establish validity in crime lab results or institute statutory mechanisms that allows individuals to prove their innocence in court based on evolving science or expert reputation. With respect to the third area of sentencing, affirmatives can change/end mandatory minimum sentencing, can change the way drug crimes are sentenced or could abolish/change the requirements for the death penalty. Negatives can argue that reforming forensic science would have catastrophic impacts for evidence collection or would lead to an increase in mistakes made in crime labs. When negating policing, teams can argue that increased reform on policing would lead to officers leaving the profession, could mobilize the creation of underground militias or would cause an increase of violence towards police officers. A generic

circumvention argument available to negatives could be that those in power, specifically, Attorney General Barr, will choose not to enforce whatever the affirmative does. Negative teams have access to agent counterplans that test the mechanism of the affirmative; there is a debate to be had on whether Congress or the courts are more effective at initiating reform in the criminal justice system. Disadvantage ground would include federalism arguments that challenge the roles both the federal and state governments play in the criminal justice system, backlash disadvantages in the form of police officers rebelling against the affirmative or funding disadvantages since a lot of the funding will have to be absorbed by state governments.

Usually, the topic paragraph has very little influence on topicality debates – such matters are typically left to the arguments made by debaters in each individual round of policy debate. However, it may be significant to note that the topic author and the members of the Wording Committee listed the overturning of Supreme Court decisions as a potential plan mechanism: “These could include, but is not limited to, body cameras, increased community policing, instituting community review boards to investigate police misconduct or can overturn Supreme Court decisions that have increased protections for police officers.” This sentence in the topic paragraph could become significant when interpreting the word, “enact,” in the debate resolution. Negative teams will typically argue that “enact” refers only to legislative processes.

#### **TOPICALITY VIOLATIONS THAT SHOULD BE ANTICIPATED:**

Note: Below is the list of topicality violations supported with evidence and argument in Volume 3 of the Baylor Briefs “Topicality Casebook” prepared by Dr. Ryan Galloway of Samford University. If you wish to explore the evidence and brief structure supporting each of the following topicality violations, consult the Topicality Casebook.

1. *Enact means congressional action: Cases dealing with the Supreme Court or executive orders are not topical.*

This topicality argument states that the affirmative plan must be enacted by the US Congress and not the Supreme Court or the executive branch. By legal definition, Congress enacts laws, whereas the Supreme Court interprets laws, and the executive branch executes such laws. Enactment of laws must come from Congress in the first place. Courts that have interpreted the word enact draw specific distinctions between legislative action, which enacts, and judicial action, which interprets, and executive action, which enforces. The precise meaning of the term enact should be upheld as opposed to mere dictionary definitions of the term.

2. *“Sentencing” means the sentencing phase of a trial: Cases dealing with legalization are not topical.*

This topicality argument states that the affirmative plan must deal with the sentencing phase of a trial and not the guilt phase of a trial. Many teams on this topic will be tempted to legalize a currently illegal criminal activity. Examples include legalizing marijuana, legalizing prostitution, or legalizing online gambling. However, such cases do not deal with sentencing reform. Allowing the affirmative team to deal with legalization as well as sentencing doubles the size of the topic. Now, the negative team has to deal with affirmatives that decrease penalties for a crime as well as cases that legalize the crime altogether. The purpose of the topic is to deal with sentencing reform, not legalization of already existing crimes. Criminal trials are divided into the guilt phase and the sentencing phase. The affirmative interpretation blurs those two ideas together, as opposed to treating them as the separate entities that they are. The affirmative should not be allowed to skirt the core requirements of the resolution.

3. *Policing deals with officers from police departments: Neighborhood watch cases are not topical.*

This topicality argument states that the affirmative plan must deal with police departments, not other entities that engage in supervision. Policing refers to activity done by police departments, and not activities done by other entities who engage in police like activities like neighborhood watch programs. Teams may be tempted on this topic to deal with police like organizations like neighborhood watch programs. However, such actions are distinct from policing actions in that they do not involve official law enforcement personnel. There are topic specific disadvantages to placing federal regulations on the police, such as undermining police innovation and destroying community trust in police departments. The affirmative should be limited to actions taken by official police departments and not quasi-police entities that attempt to help stop crime.

4. *“Forensic science” deals with using scientific methods to investigate crimes.*

This argument states that the affirmative plan must deal with the use of scientific methods to investigate crimes. Some affirmative teams might rely on decontextualized definitions of forensics to deal with activities such as speech and argumentation. While these are certainly worthwhile goals, they do not meet the interpretation of forensic science in the resolution. Forensic science is being used in conjunction with criminal justice reform, not in the context of something like education reform. In the criminal justice area, forensic science deals with the scientific investigation of crimes using lab reports, DNA testing, ballistics investigations, etc. Allowing decontextualized definitions of forensics thwarts the purpose of the topic.

5. *“Criminal justice reform” deals with criminal law, not civil law.*

This argument states that the affirmative plan must enact criminal justice reform, which is distinct from the civil justice law system. The United States system of law is divided into two parts: the criminal justice system and the civil justice system. The criminal justice system deals with criminal activity and can result in punishment like imprisonment. The civil justice system deals with injuries and negligence caused by another citizen and results in monetary damages against the offender. Many teams may be tempted to deal with civil remedies like the amount of punitive damages an individual can receive when wronged by a corporation. The deportation of immigrants is also a civil, rather than criminal, process. Such cases run afoul of the resolution. Much as the American justice system is divided into two parts, the topic should allow for criminal justice reform and not civil justice reform. This allows for a clear division of what the negative should have to research to debate the topic.

6. *“Criminal justice reform” means efforts to end mass incarceration.*

This topicality argument states that the affirmative plan must make efforts to end mass incarceration, not to increase incarceration. Criminal justice reform is a term with many meanings, but in the present day political context, it is referring to moves by the federal government, the states, and criminal justice rights groups to end the mass incarceration policies on the 1980’s and 1990’s. Many affirmatives may be tempted to increase incarceration, by cracking down on trafficking, cracking down on hate crimes, or cracking down on domestic abusers. These cases are not part of criminal justice reform in the present context of American society. Allowing for cases that deal with both soft on crime and hard on crime cases doubles the size of the topic. The affirmative should instead be limited to cases that decrease mass incarceration, not ones that attempt to increase the prison population.

7. *“Substantial” means dealing with substantive law, not procedural law.*

This topicality argument states that the affirmative plan must deal with substantive law, or the actual rights of parties in the sentencing phase of a trial. The affirmative must basically change the length of the sentence or the degree of the penalty that an offender receives. Meanwhile, procedural changes, like how witnesses testify, evidentiary standards, and how pleadings take place, are not topical. Substantive law deals with the effect of the law, whereas procedural law deals with the steps to reach the substantive conclusion. There are thousands of potential procedural changes to the law, like how child witnesses testify, or the standards by which evidence is allowed in a trial, or the ways in which pleadings and arguments at the trial take place. A crafty affirmative team would write a procedural case that does not affect trial outcomes, allowing them to skirt the major arguments of the topic. By limiting the topic to substantive changes in the law, the negative can best provide a limit to the topic. Questions as to what happens as a result of the sentencing phase of the trial are topical, questions about how the trial functions are matters of procedural law. A “bright line” is drawn between affirmative cases which are topical and affirmative cases which are not topical.

8. *“Substantial:” means at least five percent of the criminal population—tiny changes in the law are not topical.*

This topicality argument states that the affirmative plan must affect more than five percent of the population in correctional facilities in the criminal justice system. Many teams may be tempted to deal with the most minor of crimes like child truancy laws, failing to use a turn signal, or jaywalking. They would do so in an effort to avoid core disadvantages like deterrence and vigilantism by essentially saying they are too small to make a difference. This violation is essential to keep such “squirrel” cases under control. If the affirmative is allowed to pick whatever esoteric crime they wish to decrease the penalty for, then there would be a race to the “case of the week” where the affirmative team chooses a different tiny part of the criminal justice system to affect. Only by requiring the affirmative to make a substantial

change in criminal justice policy can the negative hope to have arguments that link to the affirmative case.

9. *“Reform” means to change to an improved form—cases that ban the criminal justice system are not topical.*

This topicality argument states that the word reform in the resolution requires one to change the criminal justice system to an improved form, and not eliminate it. While it may be surprising to some debaters, there is a large body of literature that calls for the elimination of prisons and the elimination of policing. Such changes would not reform the criminal justice system, they would get rid of it altogether. Indeed, one negative position that can be run on this topic is that reforming the criminal justice system trades-off with efforts to eliminate it altogether. The resolution did not call for the elimination of the criminal justice system, it asked for it to be reformed. The affirmative would conflate the term reform with eliminate, which is an imprecise interpretation of the resolution.

10. *“Federal government:” the central government in Washington, D.C., not the state governments or interstate compacts.*

This topicality argument states that the Affirmative plan must use the central government in Washington, D.C. to adopt their plan. Many teams may be tempted to use the state governments or an “inter-state compact” between states to implement their plan, because most crimes and most incarceration takes place at the state and local level. However, this violation draws a distinction between “federal forms of government” (defined as those which divide power between levels of government) and the “federal government” which is the central government in Washington, D.C. This interpretation has two tangible benefits. First, it allows the negative team to predict the agent of action taken by the affirmative team. Instead of having to research disadvantages and solvency attacks for literally every state in the union, the negative team needs only research disadvantages to actions taken by the federal government in Washington, D.C. Second, the interpretation is more precise than the affirmative interpretation. While the affirmative team will rely upon an interpretation describing “federal” forms of government (which divide power between sub-units) as opposed to unitary governments (which retain power in one central entity), such an interpretation ignores that the affirmative team must defend “the federal government” referring to one entity housed in Washington, D.C. Therefore, the negative interpretation best preserves the precise meaning of the term “federal government” in the resolution.

## **UNITED STATES FEDERAL GOVERNMENT**

### Federal government means the central government in Washington, D.C.

Amy Blackwell, (J.D., Staff, U. Virginia Law Library), THE ESSENTIAL LAW DICTIONARY, 2008, 187. Federal: Relating to the central government of a union of states, such as the national government of the United States.

Carol-June Cassidy, (Editor), CAMBRIDGE DICTIONARY OF AMERICAN ENGLISH, 2nd Ed., 2008, 308. Federal government: of or connected with the central government

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 377. Federal government: relating to the central government of a federation.

Michael Agnes, (Editor), WEBSTER’S NEW WORLD DICTIONARY, 4<sup>th</sup> College Edition, 2007, 290. Federal government: Of the central government.

Susan Spitz, (Sr. Editor), AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE, 4th Ed., 2006, 647. Federal: The central government of the United States.

## **ENACT**

### “Enact” means to make a law.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 642. Enact: To make into law by authoritative act; to pass.

Sol Steinmetz, (Editor), RANDOM HOUSE WEBSTER’S COLLEGE DICTIONARY, 1997, 429. Enact: To make into an act or statute.

### “Enact” means to establish.

Jean McKechnie, (Editor), WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, 596. Enact: To decree; to establish.

Courts can “enact” rules.

Mark Hermann, (Attorney, Jones Day, Cleveland, Ohio), AMERICAN BAR ASSOCIATION: LITIGATION, Fall 2005. 40. Important practical considerations also weigh in the decision whether to enact a rule or statute. Generally, a court-created rule is likely to be simpler to adopt than legislation because a rule avoids the complexities of the legislative process. Courts are closer to the litigation process and have a better understanding of how the specific aspects of coordination will affect existing procedures, and a court-created rule may be easier to modify as courts accumulate experience with coordination and identify problems.

Mark Hermann, (Attorney, Jones Day, Cleveland, Ohio), AMERICAN BAR ASSOCIATION: LITIGATION, Fall 2005. 39. By making wise policy choices, state legislators and supreme courts can enact laws or court rules that will help their states’ judges efficiently and fairly resolve the mass tort cases of the future.

NAACP, NAACP SUPPORTS KELLOGG’S NATIONAL DAY OF HEALING, Jan. 6, 2017. Retrieved Jan. 6, 2017 from <https://www.naACP.org/latest/naACP-supports-kelloggs-national-day-healing-jan-17/>. To be sure, America has made progress over the decades. Government and the courts enacted statutes and rulings ranging from Brown v. Board of Education to the Civil Rights Act of 1964 to the Fair Housing Act of 1968 that outlawed public discrimination, while purportedly providing equal opportunities.

Only Congress can “enact” – the term does not apply to court action.

Administrative Office of the U.S. Courts, UNDERSTANDING THE FEDERAL COURTS, Nov. 22, 2019. Retrieved May 13, 2020 from <https://www.uscourts.gov/sites/default/files/understanding-federal-courts.pdf> The courts do not enact the laws; that is the responsibility of Congress. Nor do the courts have the power to enforce the laws; that is the role of the President and the many executive branch departments and agencies.

Pamela Hobbs, (Professor at UCLA), Defining The Law: (Mis)Using the Dictionary to Decide Cases, 2011. Retrieved May 13, 2020 from JSTOR. Legislatures enact laws and the courts interpret them. Under the doctrine of legislative supremacy, a judge is not free to ignore or modify a statutory provision in order to substitute a rule that seems to him to be better reasoned.

Sarah Baker, (Attorney), THE LIBERTY PAPERS, Sept. 7, 2015. Retrieved May 10, 2020 from <http://www.thelibertypapers.org/2015/09/07/authoritarians-sacrifice-liberty-to-defeat-same-sex-marriage/>. The Supreme Court cannot enact legislation or regulation. It cannot order expansion of the other two branches. It can only respond to their actions. It does so in one of three ways: 1) upholding the action as constitutional; 2) declaring the action unconstitutional and therefore invalid; or, 3) requiring an otherwise permissible exercise of power to comply with the Equal Protection Clause.

Mark Hermann, (Attorney, Jones Day, Cleveland, Ohio), AMERICAN BAR ASSOCIATION: LITIGATION, Fall 2005. 40. Important practical considerations also weigh in the decision whether to enact a rule or statute. Generally, a court-created rule is likely to be simpler to adopt than legislation because a rule avoids the complexities of the legislative process. Courts are closer to the litigation process and have a better understanding of how the specific aspects of coordination will affect existing procedures, and a court-created rule may be easier to modify as courts accumulate experience with coordination and identify problems.

Bryan Garner, (Prof., Law, U. California at Berkeley), GARNER’S DICTIONARY OF LEGAL USAGE, 2011, 316. Enactment: The action or process of making a legislative bill into a law.

Della Summers, (Editor), LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH: THE LIVING DICTIONARY, 2005, 513. Enact: To make a proposal into a law.

Jean McKechnie, (Editor), WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, 596. Enact: To make a bill (a bill, etc.) into law; to pass (a law).

Sandra Anderson, (Editor), COLLINS ENGLISH DICTIONARY, COMPLETE & UNABRIDGED, 2006, 539. Enact: To make into an act or statute.

Sandra Anderson, (Editor), COLLINS ENGLISH DICTIONARY, COMPLETE & UNABRIDGED, 2006, 539. Enact: To establish by law; ordain or decree.

WORDS AND PHRASES, Voll. 14B, 2005, 75. Enact: To enact is to decree, to establish by law and to perform or effect a law. State ex rel. Board of Commissioners of Lake Borgne Basin Levee District v. Bergeron.

WORDS AND PHRASES, Voll. 14B, 2005, 75. Enact: The words “enact” and “enacted” within provision of constitutional amendments related to appropriation bills refer solely to legislative action.

Bryan Garner, (Prof., Law, U. California at Berkeley), GARNER’S DICTIONARY OF LEGAL USAGE, 2011, 316. Enact: The platitude is that courts adjudicate, rather than legislate. Some judicial decisions seem to belie this principle; still, it is unidiomatic to refer to a court as enacting doctrines.

## **SUBSTANTIAL**

### “Substantial” means the “essential” part of something.

Christine Lindberg, (Editor), OXFORD COLLEGE DICTIONARY, 2<sup>nd</sup> Ed., 2007, 1369. Substantially: Concerning the essentials of something.

Elizabeth Jewell, (Editor), THE OXFORD DESK DICTIONARY AND THESAURUS, 2<sup>nd</sup> Ed., 2007, 835. Substantially: Essentially, at bottom, fundamentally, basically, in essence, intrinsically.

Elizabeth Jewell, (Editor), THE OXFORD DESK DICTIONARY AND THESAURUS, 2<sup>nd</sup> Ed., 2007, 835. Substantially: Essential; true in large part.

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: in essence, basically, fundamentally.

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: concerning the essential points of something

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: fundamental, essential, basic.

Michael Agnes, (Editor), WEBSTER’S NEW WORLD DICTIONARY, 4<sup>th</sup> College Edition, 2007, 780. Substantial: In essentials.

### “Substantial” means “valuable.”

Christopher Leonesio, (Managing Editor), AMERICAN HERITAGE HIGH SCHOOL DICTIONARY, 4<sup>th</sup> Ed., 2007, 1376. Substantial: Considerable in importance, value, degree, amount, or extent.

Daniel Oran, (Assitant Dir., National Paralegal Institute & J.D., Yale Law School), ORAN’S DICTIONARY OF THE LAW, 4<sup>th</sup> Ed., 2008, 510. Substantial: Valuable, real, worthwhile.

### “Substantial” means permanent as opposed to temporary.

Richard Bowyer, (Editor), DICTIONARY OF MILITARY TERMS, 3rd Ed. 2004, 235. Substantive: Permanent (as opposed to acting or temporary).

### “Substantial” means relating to the “fundamental substance” of a thing.

Sandra Anderson, (Editor), COLLINS ENGLISH DICTIONARY, 8th Ed., 2006, 1606. Substantial: Of or relating to the basic or fundamental substance or aspects of a thing.

Christopher Leonesio, (Managing Editor), AMERICAN HERITAGE HIGH SCHOOL DICTIONARY, 4<sup>th</sup> Ed., 2007, 1376. Substantial: Of, relating to, or having substance.

### “Substantial” means of a “corporeal or material nature.”

Stuart Flexner, (Editor-in-chief), RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE, UNABRIDGED, 2nd Ed., 1987, 1897. Substantial: Of a corporeal or material nature; tangible; real.

### “Substantial” means more than 25%.

Federal Tax Regulation, Section 1.409A-3(j)6, INCOME TAX REGULATIONS (Wolters Kluwer Business Publication), 2008, 723. For this purpose, a reduction that is less than 25% of the deferred amount in dispute is not a substantial reduction.”

### “Substantial” means more than 5%.

Law Insider, 2020. Retrieved May 21, 2020 from <https://www.lawinsider.com/dictionary/substantial-amount>. Substantial Amount means any securities of the Corporation having a then fair market value of more than 5% of the Corporation's consolidated capital accounts as of the end of the then preceding fiscal year.

### “Substantial” means “without material qualification.”

BLACK’S LAW DICTIONARY, Feb. 5, 2014. Retrieved May 10, 2017 from <https://www.novoco.com/notes-from-novogradac/close-enough-how-measure-substantially-similar-under-fasbs-new-lihtc-investment-guidance>. Substantially: Essentially; without material qualification; in the main; in substance, materially; in a substantial manner

### “Substantial” means “important.”

Amy Blackwell, (J.D., Staff, U. Virginia Law Library), THE ESSENTIAL LAW DICTIONARY, 2008, 477. Substantial: Important, large, considerable, valuable.

Carol-June Cassidy, (Editor), CAMBRIDGE DICTIONARY OF AMERICAN ENGLISH, 2nd Ed., 2008, 873. Substantially: large in size, value, or importance

Christine Lindberg, (Editor), OXFORD COLLEGE DICTIONARY, 2<sup>nd</sup> Ed., 2007, 1369. Substantially: Of considerable importance, size, or worth.

Elizabeth Jewell, (Editor), THE OXFORD DESK DICTIONARY AND THESAURUS, 2<sup>nd</sup> Ed., 2007, 835. Substantially: Of real importance, value, or validity.

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: real, significant, important, major, valuable.

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: of great importance, size, or value.

“Substantial” means “mainly.”

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: for the most part; mainly.

“Substantial” means “markedly.”

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: greatly, markedly, appreciably.

“Substantial” is an inexact term.

Daniel Oran, (Assitant Dir., National Paralegal Institute & J.D., Yale Law School), ORAN’S DICTIONARY OF THE LAW, 4<sup>th</sup> Ed., 2008, 510. Substantial: “A lot,” when it’s hard to pin down just how much “a lot” really is. For example, substantial evidence is more than a mere scintilla of evidence but less than a full preponderance of evidence.

“Substantial” means “to a great extent.”

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: to a great extent.

Carol-June Cassidy, (Editor), CAMBRIDGE DICTIONARY OF AMERICAN ENGLISH, 2<sup>nd</sup> Ed., 2008, 873. Substantially: to a large degree.

“Substantial” means “large.”

Michael Agnes, (Editor), WEBSTER’S NEW WORLD DICTIONARY, 4<sup>th</sup> College Edition, 2007, 780. Substantial: Material, strong, large.

“Substantial” means “socially important.”

Christine Lindberg, (Editor), OXFORD COLLEGE DICTIONARY, 2<sup>nd</sup> Ed., 2007, 1369. Substantially: Important in material or social terms.

“Substantial” means “not imaginary.”

Christopher Leonesio, (Managing Editor), AMERICAN HERITAGE HIGH SCHOOL DICTIONARY, 4<sup>th</sup> Ed., 2007, 1376. Substantial: True or real; not imaginary.

Maurice Waite, (Editor), OXFORD DICTIONARY & THESAURUS, 2007, 1032. Substantially: real and tangible rather than imaginary.

“Substantial” means “in substance” rather than “procedure.”

Merriam-Webster, 2020. Retrieved May 21, 2020 from <https://www.merriam-webster.com/legal/substantial%20right>. Legal Definition of substantial right : an important or essential right that merits enforcement or protection by the law : a right related to a matter of substance as distinguished from a matter of form

## **SUBSTANTIAL IS CONTEXTUALLY DEFINED**

Reforming mandatory minimum sentencing would be substantial.

Mark Bennett, (U.S. District Judge, Northern District of Iowa), UMKC LAW REVIEW, Fall 2018, 10 Mandatory minimum sentences in drug cases distort the sentencing process and mandate unjust sentences. In the substantial percentage of cases in which they apply, they produce a sentencing regime that is worse than the one the Sentencing Reform Act of 1984 was enacted to replace.

Julie Samuels, (Sr. Fellow, Center for Justice Policy, Urban Institute), FEDERAL SENTENCING REPORTER, Dec. 2019. Retrieved Apr. 23, 2020 from Nexis Uni. Substantial reform work remains to be done. Key areas for future reform include filling the gaps in the First Step Act (e.g., expanding eligibility for earned time credits and making all sentencing provisions retroactive) and embracing additional and more impactful reforms recommended by the Colson Task Force on Federal Corrections (e.g., reducing or eliminating mandatory minimum penalties and creating a second look provision) that were not included in First Step.

Crystal Yang, (Prof., Law, Harvard Law School), *NYU LAW REVIEW*, Oct. 2014, 1280. This goal of rehabilitation manifested itself in the form of indeterminate sentencing, which allowed prison sentences and probation to be tailored to each offender's progress toward reform. As a result, judges and parole boards possessed substantial discretion in their sentencing determinations.

Reforming drug sentencing would be substantial.

David Cole, (Prof., Law, Georgetown U. Law Center), *OHIO STATE JOURNAL OF CRIMINAL LAW*, Fall 2011, 39. The critical question going forward is how to take what could be a turning point in incarceration trends and make it a major transformation. What is ultimately needed is substantial reform of sentencing practices, reduced reliance on incarceration, especially for drug crimes and other nonviolent offenses, and shortened criminal sentences for many crimes, including serious offenses.

Angela Davis, (Prof., Law, American U. College of Law), *HOFSTRA LAW REVIEW*, Summer 2016, 1069. Most recently, a bipartisan group of senators introduced legislation to further reverse the harsh sentencing laws passed during the 1980s. The Sentencing Reform and Corrections Act would grant broad authority to federal judges to exempt a substantial number of nonviolent drug offenders from mandatory minimum prison terms.

Jonathan Caulkins, (Prof., Public Policy, Carnegie Mellon U.), *REINVENTING AMERICAN CRIMINAL JUSTICE*, 2017, 126. Substantially freeing the criminal justice system from the financial burdens and reputational damage of extensive marijuana involvement requires only a thorough decriminalization, not legalization.

Reducing reliance on incarceration would be a substantial reform of sentencing.

Nathaniel Reisinger, (JD Candidate, Harvard Law School), *HARVARD CIVIL RIGHTS, CIVIL LIBERTIES LAW REVIEW*, Winter 2019, 320. There is therefore little doubt that substantial decarceration will require massive, nationwide sentencing reform and a difficult national conversation about our overreliance on incarceration even as a response to violent crime.

Nicole Porter, (Dir., Advocacy at the Sentencing Project), *WAKE FOREST JOURNAL OF LAW AND POLICY*, Feb. 2016, 34. In order to achieve a broader approach to public safety, stakeholders must focus on substantial sentencing reforms, which recognize the full humanity of justice-involved persons, and target interventions that reduce contact with the criminal justice system.

Asset forfeiture reform would be substantial.

Alex Kreit, (Prof., Law, Thomas Jefferson School of Law), *OHIO STATE LAW JOURNAL*, 2016, 1355. Kentucky Senator Rand Paul has introduced the Fifth Amendment Integrity Restoration (FAIR) Act, which would make a number of substantial reforms to asset forfeiture, including raising the federal government's burden of proof for seizing assets and redirecting seized assets from the Attorney General's coffers to the Treasury's General Fund.

Sex-trafficking reform would be substantial.

Madison Santana, (JD Candidate), *VANDERBILT LAW REVIEW*, Oct. 2018, 1740. Whether prostitution law reform may in fact be effective remains a matter of academic debate in the United States; however, such reform has gained substantial ground abroad, with compelling results. This Note argues for "demand-centric" prostitution law reform in the United States that prioritizes enforcement efforts and sentencing against pimps and purchasers of commercial sex. Moreover, this Note argues that Texas, already a pioneer of late in state prostitution and sex-trafficking legislative reform, is the ideal jurisdiction to initiate such legal change.

Community policing reform would be substantial.

Kenneth Novak, (Prof., Criminal Justice, U. Missouri at Kansas City), *POLICE AND SOCIETY*, 2017, 109. Starting in the 1980s, more and more police departments began employing foot patrol as a central component of their operational strategy, rather than as a novelty or an accommodation to downtown business interests. Crime prevention programs became more and more reliant on community involvement, as in neighborhood watch, community patrol, and "crimestoppers" programs. Police departments began making increased use of civilians and volunteers in various aspects of policing and made permanent geographic assignment an important element of patrol deployment. This came to be called community policing (COP), entailing a substantial change in police thinking, "one where police strategy and tactics are adapted to fit the needs and requirements of the different communities the department serves, where there is a diversification of the kinds of programs and services on the basis of community needs and demands for police services and where there is considerable involvement of the community with police in reaching their objectives."

Rights are procedural, not substantial.

Richard Delgado & Jean Stefancic, (Professors of Law, U. of Alabama), CRITICAL RACE THEORY: AN INTRODUCTION, 2017, 29. In our system, rights are almost always procedural (for example, to a fair process) rather than substantive (for example, to food, housing, or education). Think how that system applauds affording everyone equality of opportunity but resists programs that assure equality of results, such as affirmative action at an elite college or university or efforts to equalize public school funding among districts in a region. Moreover, rights are almost always cut back when they conflict with the interests of the powerful. For example, hate speech, which targets mainly minorities, gays, lesbians, and other outsiders, receives legal protection, while speech that offends the interests of empowered groups finds a ready exception in First Amendment law. Think, for example, of speech that insults a judge or other authority figure, that defames a wealthy and well-regarded person, that divulges a government secret, or that deceptively advertises products, thus cheating a large class of middle-income consumers. Think of speech that violates the copyright of a powerful publishing house or famous author.

Alex Vitale, (Prof., Sociology, Brooklyn College), THE END OF POLICING, 2017, 13. Procedural justice deals with how the law is enforced, as opposed to substantive justice, which involves the actual outcomes of the functioning of the system.

Numerous proposed changes are not substantial.

Nicole Porter, (Dir., Advocacy at the Sentencing Project), WAKE FOREST JOURNAL OF LAW AND POLICY, Feb. 2016. 1-2. In recent years, there has been growing consensus across ideological lines to address mass incarceration. Yet, policy changes are incremental in approach and do not achieve the substantial reforms needed to significantly reduce the rate of incarceration and its collateral impacts. Incremental policy reforms include: reducing the quantity differential between crack and powder cocaine that results in racially disparate sentencing outcomes at the federal level and in certain states; reclassifying certain felony offenses to misdemeanors; expanding voting rights and access to public benefits for persons with felony convictions; and adopting fair chance hiring policies for persons with criminal records.

Jonathan Simon, (Prof., Law, U. California at Berkeley School of Law), U. MIAMI LAW REVIEW, Winter 2016. Amnesties of one-time sentence reductions aimed at reducing chronic overcrowding in a short, but orderly manner, will not substitute for the hard political work of enacting substantial sentencing reform and transforming law enforcement and prosecutorial routines.

## CRIMINAL JUSTICE

“Criminal justice” means everything dealing with crime.

Mark Davis, (Dir., Institute for the Study of Violence, Kent State U.), CONCISE DICTIONARY OF CRIME AND JUSTICE, 2016, 76. Criminal justice system: the entire governmental apparatus that formally processes crime, including but not limited to law enforcement, prosecution, defense, the courts, and corrections.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 456. Criminal Justice: The methods by which a society deals with those who are accused of having committed crimes.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 287. Criminal: A person convicted of a crime or anything related to crime.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 456. Criminal Justice System: The collective institutions through which an accused offender passes until the accusations have been disposed of or the assessed punishment concluded. The system typically has three components: law enforcement (police, sheriffs, marshals), the judicial process (judges, prosecutors, defense attorneys) and corrections (prison officials, probation officers, and parole officers).

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 454. Criminal: Of, relating to, or involving a crime.

Misdemeanors are “criminal” cases.

Greg Berrman, (Dir., Center for Court Intervention), START HERE: A ROAD MAP TO REDUCING MASS INCARCERATION, 2018, 49. Most criminal cases in the United States are misdemeanors. Misdemeanors outnumber felonies by approximately 3 to 1.

“Juvenile justice” is part of the U.S. criminal justice system.

Cara Drinan, (Prof., Law, Catholic U.), THE WAR ON KIDS: HOW AMERICAN JUVENILE JUSTICE LOST ITS WAY, 2018, 16. First established in Illinois in 1899, juvenile justice is now a well-established feature of our criminal justice system. Every jurisdiction in the country has a separate juvenile justice system.

## REFORM

### “Reform” means to make better.

Jean McKechnie, (Editor), WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, 1518. Reform: To make better by putting a stop to abuses or malpractice, or by introducing better procedures.

Jean McKechnie, (Editor), WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, 1518. Reform: An improvement; correction of faults or evil, as in politics.

### “Reform” means to restore to a previous state.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 924. Reform: Reform has a particular sense in which the person or thing being improved is corrected and brought closer to its former or natural condition.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 924. Reform: Improvement, correction or restoration; reform is a process by which a person, idea, document, institution, or anything else is made better, or by which its defects are diminished.

### “Reform” means to improve efficiency.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 924. Reform: Law reform and other arenas of institutional reform suggest the improvement of the efficiency and effectiveness with which legal institutions and legal rules give effect to the goals of the law, as those goals are understood by the reformers of that time and place.

### “Reform” means to correct something that is wrong.

Steven Gifts, (Editor), LAW DICTIONARY, 7th Ed., 2016, 461. Reform: To correct, modify, or rectify.

### “Reform” is contextually defined.

Crystal Yang, (Prof., Law, Harvard Law School), NYU LAW REVIEW, Oct. 2014, 1326-1327. Numerous proposals for reforming federal sentencing arose in the aftermath of Booker due to dissatisfaction with the state of federal sentencing. Indeed, the equity stakes are high as similar offenders receive increasingly disparate sentences based on the mere happenstance of the sentencing judge to whom they are assigned. While several of the major proposals for reform contemplate a reduction in judicial discretion, the proposals largely ignore the role of other institutional actors - in particular, prosecutors - who play a central and powerful role in sentencing decisions and disparities.

## FORENSIC SCIENCE

### “Forensic science” refers to the use of scientific principles in the criminal justice system.

Emma Shoucair, (JD), MICHIGAN LAW REVIEW, Oct. 2018, 175. Forensic science is defined as "the application of scientific principles and techniques to matters of criminal justice especially as relating to the collection, examination, and analysis of physical evidence."

Michael Risinger, (Prof., Law, Seton Hall U. School of Law), SETON HALL LAW REVIEW, 2018, 720. The usual definition of "forensic science" is "the application of scientific knowledge to provide relevant evidence for use in the determination of material issues in resolving legal disputes," or some such. Viewed from this broad perspective, virtually any scientific knowledge can be deployed as "forensic science" in some litigation setting. For instance, quantum mechanics might provide relevant information on why some GPS system was in error in a way that caused damage to users of that system.

Armstrong Forensic Laboratories, DEFINING FORENSICS, Mar. 23, 2015. Retrieved Jan. 17, 2020 from <https://www.aflab.com/defining-forensics/>. We need to better define forensic science because not all forensic science is like the CSI shows on TV. Forensic science is defined as “The application of scientific knowledge and methodology to legal problems and criminal investigations.”

Michael Schlicht, (Master’s Thesis, Criminal Justice, U. Wisconsin, Platteville), RECOMMENDATIONS FOR A BEST PRACTICES MODEL FOR COMMUNICATION AMONG FORENSIC ANALYSTS AND CRIME SCENE PROCESSORS IN MULTIDISCIPLINARY CRIMINAL INVESTIGATIONS, 2016. Retrieved Jan. 17, 2020

from <https://minds.wisconsin.edu/bitstream/handle/1793/75599/SchlichtMichael.pdf?sequence=5&isAllowed=y>. Forensic science is defined by the American Academy of Forensic Sciences as “the study and practice of the application of science to the purposes of law.” The all-encompassing term of forensic science embraces all scientific disciplines that are utilized in the investigation of crime. Forensic science includes, but is not limited to the disciplines of forensic medicine, toxicology, psychology, anthropology and practitioners of the examination of fingerprints, firearms, tool marks and questioned documents.

“Forensic science” refers to the scientific examination of crime scenes.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 440. Forensic Science: The scientific analysis of physical evidence. Forensics is the analysis of evidence in a court of law and forensic science is the use of scientific analysis to evaluate physical evidence that may be used in a judicial proceeding.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 440. Forensic Science: Forensic science is most often associated with criminal investigations to determine the conditions of a crime scene or the evaluation of other physical evidence to compare identifying evidence with materials or individual people.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 764. Forensic: The branch of law enforcement dealing with legal evidence relating to firearms or ballistics.

“Forensic science” is a broad term with many subdivisions.

Michael Risinger, (Prof., Law, Seton Hall U. School of Law), SETON HALL LAW REVIEW, 2018, 721-722. Be that as it may, there are still plenty of disciplines that are included [in the definition of forensic science]. Here is a list of specialties which may be incomplete, depending on how one cuts domain boundaries, but is still extensive and good enough for illustrative purposes: Forensic document examination (mainly but not exclusively handwriting analysis); Fingerprint examination (friction ridge analysis and comparison); Other print-like phenomena; Footprints; Tire tracks; Visual hair and fiber comparison; Firearms expertise; Toolmark expertise; Blood stain and spatter analysis; Forensic odontology; Forensic anthropology; Forensic entomology; Forensic botany; Forensic biological morphology; Forensic geology; Forensic serology; Human DNA; Non-human DNA; Forensic toxicology; Forensic chemistry (includes gunshot residue) ; Dogs as instruments to identify and find substances; Digital forensics; Photogrammetry; Facial Recognition; Voice recognition; Fire investigation; Shooting incident reconstruction; Forensic pathology; The above list is merely illustrative of the variety of disciplines covered by the OSAC [Organization of Scientific Area Committees for Forensic Science]. Some of the labels cover areas that are very narrow in their focus and the subject matter they deal with.

Brent Turvey, (Prof., Justice Studies, Oklahoma City U.), EVALUATING LAW ENFORCEMENT AND FORENSIC SCIENCE CULTURES IN THE CONTEXT OF EXAMINER MISCONDUCT, 2013, 34. Forensic science is the application of scientific methodology, knowledge and principles to the resolution of legal questions, whether criminal or civil. This definition, generally consistent across the forensic science literature, is intentionally broad. There are, in fact, many different forensic subdisciplines, including (but certainly not limited to) criminalistics, crime reconstruction, forensic pathology, forensic anthropology, forensic toxicology, forensic odontology, forensic entomology, forensic mental health (psychology and psychiatry); and forensic criminology.

Quentin Rossy, (Prof., Criminal Justice Administration, U. of Lausanne), FORENSIC SCIENCE, Nov. 20, 2018. Retrieved Jan. 17, 2020 from <https://www.oxfordbibliographies.com/view/document/obo-9780195396607/obo-9780195396607-0143.xml>. Any science used to assist the adjudication of a civil litigation or a criminal case becomes, de facto, a forensic science, the term forensic merely referring to the fact that it is used in a judicial context. It follows from this that the literature on forensic science is potentially unlimited.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 764. Forensic Science: A broad range of evidence-related disciplines, some laboratory-based (as with nuclear and mitochondrial DNA analysis, toxicology, and drug analysis), others based on interpretation of patterns (as with fingerprints, writing samples, foot marks, bite marks, and specimens), and still others based on a combination of experiential and scientific analysis (as with explosive and fire-debris analysis, blood-splatter analysis).

Mark Davis, (Dir., Institute for the Study of Violence, Kent State U.), CONCISE DICTIONARY OF CRIME AND JUSTICE, 2016, 112. Forensic science: the field concerned with the scientific detection and investigation of crime. Forensic science includes but is not limited to ballistics, criminalistics, forensic odontology, and DNA testing.

## **POLICING**

“Policing” refers to the way police protect people and property.

Della Summers, (Editor), LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH: THE LIVING DICTIONARY, 2005, 1264. Policing: The way that the police are used to keep control over a particular area and to protect people and property.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 1345. Police Power: Loosely, the power of the government to intervene in the use of privately owned property, as by subjecting it to eminent domain.

Gerry Beyer, (Editor), MODERN DICTIONARY FOR THE LEGAL PROFESSION, 4th Ed., 2008, 736. Police Power: Inherent right of the government to regulate an individual's conduct or property to protect the health, safety, welfare, and morale of the community.

"Policing" refers to the promotion of public safety.

Bryan Garner, (Editor-in-chief), BLACK'S LAW DICTIONARY, 10TH Ed., 2014, 1344. Police Officer: A law-enforcement officer responsible for preserving public order, promoting public safety and preventing and detecting crime.

Bryan Garner, (Editor-in-chief), BLACK'S LAW DICTIONARY, 10TH Ed., 2014, 1345. Police Power: The inherent and plenary power of a sovereign to make all laws necessary and proper to preserve the public security, order, health, morality, and justice.

Bryan Garner, (Editor-in-chief), BLACK'S LAW DICTIONARY, 10TH Ed., 2014, 1345. Police Power: A state's Tenth Amendment right, subject to due process and other limitations, to establish and enforce laws protecting the public's health, safety and general welfare, or to delegate the right to local governments.

"Policing" is a public, rather than private function.

Bryan Garner, (Editor-in-chief), BLACK'S LAW DICTIONARY, 10TH Ed., 2014, 1345. Police Power: It is a fundamental power essential to government, and it cannot be surrendered by legislature or irrevocably transferred away from government.

"Policing" includes the tactics used by police.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 820. Policing: The means and ends of police operations. Policing includes the tactics and strategy of police operations, including patrol, neighborhood and community supervision, investigation, arrest, and detention of suspects as well as the public policy to be promoted or hindered by various approaches.

"Policing" is primarily the province of state and local governments.

Steven Gifts, (Editor), LAW DICTIONARY, 7th Ed., 2016, 411. Police Power: Inherent power of state governments, often delegated in part to local governments, to impose upon private rights those restrictions that are reasonably related to promotion and maintenance of the health, safety, morals, and general welfare of the public.

"Policing" refers to the task of making sure that people obey the law.

Della Summers, (Editor), LONGMAN DICTIONARY OF CONTEMPORARY ENGLISH: THE LIVING DICTIONARY, 2005, 1264. Policing: The people who work for an official organization whose job is to catch criminals and make sure that people obey the law.

Mark Davis, (Dir., Institute for the Study of Violence, Kent State U.), CONCISE DICTIONARY OF CRIME AND JUSTICE, 2016, 198. Police: officials whose responsibility is to enforce criminal laws and ensure public safety.

Numerous federal agencies are involved in "policing."

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 819. Police Organizations: Drug Enforcement Administration (DEA). An agency of the Department of Justice that enforces drug laws. The Drug Enforcement Administration, or DEA, is an agency of the U.S. Department of Justice for the domestic and international enforcement of laws restraining the criminal flow of drugs.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 819. Police Organizations: Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives. Federal agency to police and ensure taxes from related substances. The Federal Bureau of Alcohol, Tobacco, Firearms and Explosives is tasked with both regulating and collecting taxes on the sour substances with which it has special expertise, including the regulation and enforcement of laws dealing the (a) manufacture and importation of arms, ammunitions, and military munitions; (b) explosives; (c) tobacco and tobacco products; and (d) the federal regulation of alcohol production and commerce.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 819. Police Organizations: Federal Bureau of Investigation (FBI). The principal federal agency for the enforcement of federal criminal law. The Federal Bureau of Investigation is the principal law enforcement agency of the United States federal government. A division of the Department of Justice, the bureau is charge with investigating violations of U.S. criminal law, investigating threats to U.S. security from terrorists and foreign intelligence agencies, investigating particular likelihood of federal interest or interstate transportation, such as cases of kidnapping, child abduction, and bank robbery and providing assistance to state and local law enforcement agencies.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 820. Police Organizations: Military Police (MPs). Uniformed law enforcement units of the military forces. Military police is the specific designation for units constituted and personnel trained to serve as the law enforcement organization for the U.S. Army, operating as a police force on land subject to army jurisdiction, usually under the operational command of a provost general. It is also the generic term for such units and personnel in all of the military services, although they vary considerably in the scope of their jurisdiction; the Air Force Security forces being the most similar, but every service having a different investigative arm.

## SENTENCING

“Sentencing” refers to the application of penalties for crimes.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 1570. Sentencing: The judicial determination of the penalty for a crime.

“Sentencing” refers to the punishment phase of a criminal trial.

Mark Davis, (Dir., Institute for the Study of Violence, Kent State U.), CONCISE DICTIONARY OF CRIME AND JUSTICE, 2016, 234. Sentencing: the phase of court processes at which the defendant is punished. In many felony cases, the presiding judge uses a presentence investigation report for assistance in arriving at a more just sentence. Sentencing options include prison or jail terms, probation, fines, or other alternatives.

Bryan Garner, (Editor-in-chief), BLACK’S LAW DICTIONARY, 10TH Ed., 2014, 1569. Sentence: The judgment that a court formally pronounces after finding a criminal defendant guilty: the punishment imposed on a criminal wrongdoer.

Jean McKechnie, (Editor), WEBSTER’S NEW TWENTIETH CENTURY DICTIONARY, UNABRIDGED, 1979, 1653. Sentence: The determination or declaration by a court of the punishment of a convicted person.

Steven Gifts, (Editor), LAW DICTIONARY, 7th Ed., 2016, 505: Sentence: The punishment ordered by a court to be inflicted upon a person convicted of a crime, usually either a non-custodial sentence such as probation and/or a fine, or a custodial sentence such as a term of years of imprisonment or a number of months in a county jail.

WORDS AND PHRASES, Vol. 38B, 2002, 149. Sentencing: For purposes of statute requiring filing of a notice of intent to pursue postconviction relief within 20 days of sentencing, “sentencing” include the imposition of probation. State v. Scaccio.

WORDS AND PHRASES, Vol. 38B, 2002, 149. Sentencing: Sentencing of a criminal defendant, whether by fine, imprisonment, or order to pay restitution, declares the legal consequences of predetermined guilt. Bryan v. Rainwater.

WORDS AND PHRASES, Vol. 38B, 2002, 149. Sentencing: Sentencing occurs when a defendant appears in open court and the judge orally pronounces the sentence. State v. Cooper.

WORDS AND PHRASES, Vol. 38B, 2002, 149. Sentencing: Sentencing is the entry of judgment in a criminal cause; it is part of judicial process and it is, in the absence of compelling reasons, inconsistent and disorderly to defer that part of the process. Harty v. Fay.

“Sentencing” refers to any lawful form of punishment for crime, including community service and other alternatives to imprisonment.

Stephen Sheppard, (Editor), BOUVIER LAW DICTIONARY, 2011, 1015. Sentence: A sentence may include any lawful form of punishment, usually including a fine, community service, shaming penalties, probation, imprisonment, hard labor, or death, as well as costs and victim restitution.