Routledge Frontiers of Criminal Justice

CRIMINAL JUSTICE AND REGULATION REVISITED

ESSAYS IN HONOUR OF PETER GRABOSKY

Edited by
Lennon Y.C. Chang and Russell Brewer

Criminal Justice and Regulation Revisited

This volume brings together leading researchers to celebrate the significant contributions of Peter Grabosky to the field of Criminology, and in particular his work developing and adapting regulatory theory to the study of policing and security.

Over the past three decades, his path-breaking theoretical and empirical research has contributed to a burgeoning literature on the myriad ways regulatory systems drive state and non-state interactions in an effort to control crime. This collection of essays showcases Grabosky's pioneering treatment of key regulatory concepts as they relate to such interactions, and illustrate how his work has been instrumental in shaping contemporary scholarship and practice around the governance of security.

Revisiting the work of a key figure in the field, this book will be of interest to criminologists, sociologists, socio-legal studies and those engaged with security and policy studies.

Lennon Y.C. Chang is a Senior Lecturer in Criminology at Monash University, Australia.

Russell Brewer is a Senior Lecturer in Criminology at Flinders University, Australia.

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For Peter Nils Grabosky, an inspiring teacher, colleague and
friend

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Contributors

Julie Ayling is a Visiting Research Fellow in the School of Regulation and Global Governance (RegNet) at the Australian National University (ANU) and a Visiting Fellow in the Department of Law at the European University Institute (EUI) in Florence, Italy. Her work centres on criminal networks and state responses (laws, policies and policing strategies), particularly in the context of transnational environmental crime. She has worked closely with Peter Grabosky on several projects, and has co-written a number of publications with him, including a book (J. Ayling, P. Grabosky and C. Shearing, *Lengthening the Arm of the Law: Enhancing Police Resources in the Twenty-First Century*, Cambridge University Press, 2009).

John Braithwaite is a Professor and Founder of the School of Regulation and Global Governance (RegNet). He is leading a 25-year Peacebuilding Compared project that seeks to code 700 variables for all the world's major armed conflicts since the end of the Cold War. His latest book is *Cascades of Violence* (with Bina D'Costa, 2018). In criminology his work on restorative justice is one of his best known contributions, and in regulatory studies his works on responsive regulation and the globalisation of regulation are well known. He has co-authored many books and articles with Peter Grabosky.

Russell Brewer is a Senior Lecturer in Criminology at Flinders University. He completed his PhD under Peter Grabosky's supervision at the Australian National University. His research interests include policing, crime prevention, Internet crime, and social networks. In particular, his work seeks to establish the significance of networks as a tool for providing a clearer understanding of the risk factors that lead to deviance, as well as the structural characteristics of policing responses to criminality. He has published his findings through several leading publication outlets, holds multiple nationally competitive grants, and has been called upon by Government Agencies both domestically and abroad to advise on policy.

Roderic Broadhurst is a Professor of Criminology, School of Regulation and Global Governance (RegNet), Fellow Research School of Asian

Studies, Australian National University (ANU). He is Director of the ANU Cybercrime Observatory and non-residential fellow of the Korean Institute of Criminology, and foundation editor of the *Asian Journal of Criminology*. Recent books include *Business and the Risk of Crime in China* (ANU Press, 2011), *Policing in Context* (Oxford University Press, 2009) and *Violence and the Civilizing Process in Cambodia* (Cambridge University Press, 2015).

Lennon Y.C. Chang is a Senior Lecturer in Criminology in the School of Social Sciences at Monash University, Australia. He is affiliated with the International Cybercrime Research Centre at Simon Fraser University and Cybercrime Observatory at the Australian National University. He is a co-founder and vice-chairman of the Asia Pacific Association of Technology and Society. His research is focused on the regulation and governance of cyberspace in the Asia-Pacific region. His book *Cybercrime in the Greater China Region: Regulatory Responses and Crime Prevention* (Edward Elgar, 2012) is about the nature and range of responses to cybercrime between China and Taiwan. He is currently researching Internet vigilantism in Asia. He is also working with governments and NGOs in ASEAN countries on research and training programmes to build cybersecurity capacity and awareness.

Adrian Cherney is an Associate Professor in the School of Social Science at the University of Queensland. He is also an Australian Research Council (ARC) Future Fellow. He has completed research on policing and regulation. His current work focuses on countering violent extremism (CVE) and is undertaking research on the supervision of terrorist offenders who have been released into the community on parole. His ARC Future Fellowship is exploring community-based efforts to prevent terrorism. Projects include identifying available data sources and measures for CVE evaluation. His research has also focused on community cooperation in counter-terrorism and police engagement of Muslim communities in counter-terrorism efforts. He has secured grants from the Australian Research Council, the US Air Force, the Australian Institute of Criminology, the Queensland Department of Communities, NSW Corrective Services and the Commonwealth Attorney General's Department.

Lorraine Cherney is currently completing a PhD in the School of Political Science and International Studies, at the University of Queensland. Her PhD is focused on the development of regulation and policy on gambling, with a particular focus on Electronic Gaming Machines. Lorraine was employed for eight years in the Queensland public service, and during that time worked for the Queensland Office of Regulatory Policy and the Queensland Office of Liquor and Gaming Regulation. This has included working with gambling providers and industry peak bodies to

encourage and measure compliance to a voluntary responsible gambling code of practice. She was also a senior research officer at the Australian National University, Centre for Gambling Research (RegNet) where she completed research on the use of cash facilitates in gaming venues, and help seeking behaviours of problem gamblers and their friends and family members. Lorraine has also worked on funded projects examining interactive gaming in Australia.

Benoît Dupont is a Professor of Criminology at the Université de Montréal, where he also holds the Canada Research Chair in Cybersecurity. He is the Scientific Director of the Smart Cybersecurity Network (SERENE-RISC), one of Canada's Networks of Centres of Excellence. His research interests include the governance of security and the use of networked initiatives to enhance online safety, the coevolution of crime and technology, as well as the international comparison and evaluation of effective and efficient cybersecurity policies.

Robyn Holder is a Postdoctoral Research Fellow at Griffith University. Her work examines the relationship between victims and the state, and the mediating effect of rights. Current projects include an examination of third party advocacy structures in international and domestic criminal justice systems, and innovative justice and service responses to violence against women. She completed her PhD at the Regulatory Institutions Network at ANU in 2013 after nearly 30 years' experience in research, public policy and law reform in Australia and the UK.

Jade Lindley is an academic at the University of Western Australia Law School and Oceans Institute. Jade is a criminologist who specialises in transnational organised crime, international law and regulation. Her research crosses several themes in these contexts, including maritime piracy, human trafficking and fraud. Jade completed her PhD at The Australian National University, with visiting periods at the Institute of Criminology, University of Cambridge and the Maritime Knowledge Centre, International Maritime Organization. She has several publications and her book *Somali Piracy: A Criminological Perspective* was published in 2016.

Gregor Urbas is an Associate Professor of Law at the University of Canberra, where he teaches Criminal Law and Procedure, Cybercrime and Evidence Law. He has written extensively on criminal justice issues. He previously held positions at the Australian National University (ANU), the Australian Institute of Criminology (AIC) and the Law Council of Australia, and is an Adjunct Associate Professor at the ANU College of Law and at Simon Fraser University in Vancouver, Canada. Dr Urbas is currently a Visiting Fellow at the Tilburg Institute for Law, Society and Technology (TILT) at Tilburg University in the Netherlands.

Jennifer D. Wood is a Professor in the Department of Criminal Justice, Temple University (Philadelphia, USA). She earned a bachelor's degree in Criminology at the University of Ottawa and received both an MA and PhD in Criminology from the University of Toronto (Canada). She is a criminologist with expertise in policing and regulation. Her research focuses on street-level interventions by police and other local entities in the management of health risk behaviours and social vulnerabilities. She is the North American Regional Editor for *Policing and Society: An Internal Journal of Research and Policy*.

Preface

That light on the hill

Peter Grabosky has been an intellectual light on the hill for young scholars across the decades. His inspiration is on display in this volume through the work of his former students and colleagues. It is a unique kind of volume that achieves a high level of integration and integrity of focus. This is accomplished through a group of former ANU students and colleagues interrogating aspects of their own research that say something about the core themes in the life work of one scholar. I argue that this works because those themes are interesting and important, and the life of Peter Grabosky, boy and man, likewise is interesting and important.

While this book is about the percolation of Graboskism into the work of a new generation, we can better understand that by seeing what happened before. Peter has also been a mentor and a profound influence on his senior colleagues, me included, throughout his career. This started early on. It is best illustrated with the profound importance of the contribution Peter Grabosky made to the life work of Ted Gurr, who died just two weeks before I started writing this preface. Ted was an influence from the early days of his training. Peter became a post-doc working on the project Ted Gurr led on *The Politics of Crime and Conflict* (Gurr *et al.*, 1977). This was a follow-up to Ted's path-breaking cross-national work, *Why Men Rebel* (Gurr, 1970).

Path-breaking is no understatement, because Ted Gurr became the great methodological innovator of comparativism in political science, in criminology and in the social sciences broadly (Stohl, Lichbach and Grabosky, 2017). The Gurr comparative oeuvre combined quantitative comparison from diverse statistical primary sources with qualitative case study methods and historiography. Thankfully for Australia, Ted assigned Peter the job during his post-doc of collecting the historical data on patterns of crime and violence in the city of Sydney during the nineteenth and twentieth centuries. Peter fell in love with Australia and in 1978 became the first Director of the South Australian Office of Crime Statistics. He was incredibly energetic and his arrival was a shock to the relaxed Australian criminology scene of 1978. He always wore a suit (very odd), was rather handsome, appearing in his glasses like Clark Kent emerging from a telephone box. Earlier, he had started a love affair with Asia and the

Pacific more widely – particularly, but not only, Japan – during his Vietnam War service on the USS Providence. The war itself he came to detest. The cynicism it engendered in him about abuse of state power began the process of turning him into a great scholar of state crime. He studied Japanese for decades with great assiduousness and limited success. His talents were not as a linguist. But Peter Grabosky was never a scholarly careerist; he followed his passion for learning wherever that passion burnt brightest, not where the investment would deliver him career success. Thankfully, he never attended ECR (Early Career Researcher) strategic development workshops.

When Peter imbibed Ted Gurr's passion for comparativism, however, he transformed it into something richer and better. Without the way Peter threw himself into *The Politics of Crime and Conflict* (Gurr *et al.*, 1977) and *Sydney in Ferment* (Grabosky, 1977), the comparativism that made Gurr such a stellar paradigm-changer across the social sciences would never have been realised. In the next decade, Peter likewise threw himself into a comparative project with me (Grabosky and Braithwaite, 1986; Braithwaite and Grabosky, 1985). A greater contrast with the international influence of Ted Gurr's work with Peter could not be imagined. Ours was a comparative study of the regulatory strategies of all of Australia's most important business regulatory agencies, 103 of them. Again it was a path-breaking comparativism of unprecedented breadth that I would say Peter led. No one had ever compared the patterns of regulation of *all* the major agencies in one country. Peter had chosen his co-author less wisely on this occasion, however. Virtually no one read or cited these books during more than the first decade of their existence. Oxford University Press (Australia) published *Of Manners Gentle: Enforcement Strategies of Australian Business Regulatory Agencies* (Grabosky and Braithwaite, 1986). Oxford (UK) ordered 66 copies for distribution across all of the UK and Europe! Few were interested internationally, Oxford thought, in a book with Australia in the title, even if it attempted a kind of comparativism that had never been done in any other country. There was in those days no discernible academic field of regulatory studies that created a market for the book.

Peter and I believed, nevertheless, that the social sciences could benefit from the building of such a field in a comparative fashion. We persisted in this forlorn belief, organising a national conference attended by a who's who of the most important and analytic leaders of Australia's regulatory agencies of 1991. These heads of our premier agencies produced excellent reflective written papers comparing their different approaches to regulatory strategy. Again, this endeavour was a flop. Attendance was poor, media interest was assiduously cultivated, but practically non-existent, and the book that was produced (Grabosky and Braithwaite, 1993) was purchased and cited by almost no one. It was remaindered in record time.

Peter spent a period on study leave from the Australian Institute of Criminology (where he had become Director of Research) at the Urban Research Unit of the Australian National University. During this time he

wrote *Smart Regulation* with Neil Gunningham and Darren Sinclair (Gunningham, Grabosky and Sinclair, 1998). The new switch of co-authors allowed Peter this time to produce another book that became, almost instantly, a highly cited classic of regulatory studies. Gunningham and Grabosky became founding members of the Regulatory Institutions Network (today the School of Regulation and Global Governance (RegNet)) which Valerie Braithwaite and I established at the Australian National University in 2000. Darren Sinclair later joined his co-authors as another amazingly productive member of the RegNet faculty. In the wake of the success of *Smart Regulation*, northern hemisphere scholars began to discover our 1986 comparative Australian book, which had been ignored for 12 years by then.

Peter has by now spent as many years researching and writing at RegNet as the 18 years he spent at the Australian Institute of Criminology. In both institutions, he managed to help non-academic staff who had no training in criminology at the time to become world-renowned criminologists: Heather Strang, who was a librarian at the Australian Institute of Criminology, and Julie Ayling, who was a legal research assistant at RegNet. He became an institution-builder in creating the burgeoning new twenty-first century field of regulatory studies, with formidable leadership from all over Australia. He also continued to be a leader in consolidating criminology as President of the Australian and New Zealand Society of Criminology and becoming a mentor to the founders of the Asian Criminological Society (among them Lennon Chang). For 10 years he was also a key member of the Campbell Collaboration Crime and Justice Coordinating Group and much more. The brilliance of his work was recognised in various international prizes.

To summarise this institutional contribution, Peter Grabosky was one of the great consolidators of the discipline of criminology in Australia and New Zealand. He helped criminology to take off across Asia. Yes, this book shows he made particularly strong contributions to the study of policing, but there was actually no sub-field of criminology – from violence to victimology to vice to vilification – that was untouched by Peter's research. He was internationally renowned as a criminologist for the breadth as well as the depth of his research. He was foundational to Australian leadership in institutionalising the field of regulatory studies as a central interdisciplinary topic of study across all the social sciences alongside many other great RegNet scholars. He was the mainstay of the germinal team of social scientists Ted Gurr led in developing the sophistication of interscalar comparative method not only in criminology but as a model for all the social sciences. Finally, he was an early mover in building certain sub-fields of criminology and regulatory studies. Cybersecurity was one of these, as the chapters in this book by Chang, Dupont and Urbas so ably show. Another consistently constructed theme that Grabosky made important across the social sciences is regulation by third parties that sit between the state and the regulatee, between police and citizens for example, and meta-regulation (regulated self-regulation or co-regulation). We see the latter themes in the chapters

by Adrian and Lorraine Cherney, Ayling, Wood, Brewer, Lindley, Holder and Chang.

These more specific themes have been developed with profound impact in Peter Grabosky's research as the chapters of this book document so well. No sub-field of criminology today is fuelling growth in undergraduate enrolments in criminology more than cybersecurity. In our College of Asia and the Pacific at the Australian National University it is also fuelling enrolments in international relations, politics and national security studies. One of the big changes occurring in criminology today is a theoretical blurring of the distinction between crime and war, as war results in the criminalisation of states, for example. Grabosky (1989) was one of the early pioneers of the study of state crime. Cyberwar and cyberespionage are important parts of cybercrime today. I would go so far as to say that in contemporary conditions it makes little sense for the most powerful states to fire missiles at each other, so we have seen a historical movement from hot war, to cold war fought through proxies in weak states as the dominant form of militarised competition between major powers, and now moving to the era of cyberwar as the dominant modality of war that major powers consider deploying against each other. Peter was certainly more visionary than me on cybercrime. I remember arguing with Peter as we toured South Australian wineries during the 1979 ANZSOC conference that we were devoting too much attention to computer crime because only large organisations could afford to own a computer; so why not allow them to focus on defending themselves so we can focus on corporate crimes that victimise the powerless!

Julie Ayling's chapter is one vivid illustration of how and why the survival of our planet is quite unlikely without large investments in meta-regulation. Environmental activists were usually rather gloomy when international framework agreements such as the 1987 Montreal Protocol on ozone-depleting substances and the 1997 Kyoto Protocol on climate change were signed. They were cynical that these were purely symbolic agreements without enforcement teeth. Important states such as China that changed their behaviour greatly to implement these initially vague framework agreements have moved forward under the pressure of meta-regulatory dynamics. This is not to say that the movement has been sufficient to save us, merely that the moves have been of great importance, saving hundreds of thousands of lives in the case of the Montreal Protocol. As some major states moved on many originally vague framework agreements, the agreements were meta-regulated to gradually attain more specificity of content over time.

Peter Grabosky's accomplishments seem institutional but in fact were enacted in unusually interpersonal ways. Peter built intellectual engagement on a foundation of exceptional hospitality. Especially if they came from Japan, or somewhere else in Asia, visitors during these past 36 years when Peter lived in Canberra would be treated to large dollops of meat, with the patient endurance of his vegetarian partner Bronwyn McNaughton. Valerie Braithwaite and I are far from alone among Peter's colleagues and students in saying we have a great

love for Peter, his kindness, and his intellectual hospitality. On the negative side, the largeness of those dollops of meat mean most of us co-authors will live shorter lives than had we never met Peter Grabosky. After sleeping in, amidst mutual recriminations over being kept awake by each other's alleged snoring, Peter and I would often be running late for our first fieldwork interview. Then Peter would insist on picking up an Australian meat pie each so we would not miss our meaty start to the day. Young people also identified with Peter because he lived such a well-rounded life in the way he indulged not only his intellectual and collegial passions but also his love of music, especially Chicago blues. Overly late nights in bars in Chicago, Osaka, Sydney and Taipei made for richer lives, even if shorter, especially for those who could not match Peter's passion for being up early in the morning to compensate with a long run.

There is evidence in this book of the way that Peter's collegiality and his wide reading has infected the intellectual imaginations of his collaborators. Few scholars read across such a range, or approach Peter Grabosky's literacy in international politics and society. For students, it was always hard to emerge from his office without being piled up with tomes that Peter felt would benefit them. He also created opportunities for many young scholars by being a 'rainmaker' who raised more funding for the research of younger scholars than for his own. The sophistication and nuance of those younger researchers is the feast of excellent scholarship in the Grabosky tradition on display in this book. This, even though most of the body of work of these authors, like Grabosky's own work, is not in the core of the Grabosky tradition. The book really gives a good feel for that core of the Grabosky oeuvre.

While Peter has won various international awards that mark his core criminological research distinction, this volume captures something of Peter's interdisciplinary scholarly imagination, his breadth and his sophistication, his focus on the building blocks for constructing new methods and new fields of study that transcend intellectual silos.

All the contributors to this volume are former ANU students or younger colleagues and co-authors of Peter Grabosky. Some of them now are very senior. This is the right way to celebrate the rich contributions of Peter Grabosky because he was always such a generous spirit to younger scholars he mentored. The students of all the greatest scholars collectively produce more than their mentor, as this volume evocatively demonstrates for Peter's progeny. Speaking personally, I am so proud of them getting together to honour Peter in this way under the leadership of Lennon Chang and Russell Brewer. At the same time, I do believe that distinguished older scholars such as Ted Gurr might wish that they too could join in to pay homage to how much they learnt sitting at the feet of the younger Peter Grabosky.

John Braithwaite
Distinguished Professor
School of Regulation and Global Governance
Australian National University

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Part I

Setting the scene

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Chapter I

Peter Grabosky

At the interface of criminal justice and regulation

Russell Brewer and Lennon Y.C. Chang

This edited volume celebrates the significant contributions of Peter Grabosky to the field of Criminology, and in particular, his work developing and adapting regulatory theory to the study of policing and security. Over the past three decades, his path-breaking theoretical and empirical research has contributed to a burgeoning literature on the myriad ways regulatory systems drive state and non-state interactions in an effort to control crime. This collection of essays showcase Grabosky's pioneering treatment of key regulatory concepts as they relate to such interactions, and illustrate how his work has been instrumental in shaping contemporary scholarship and practice around the governance of security.

Introduction

Criminologists have, for decades now, acknowledged a significant transformation in the organisation of policing and security – notably through the emergence of pluralistic forms of crime control (e.g. Grabosky, 1992, 1995b, 2010; Bayley and Shearing, 2001; Fleming and Wood, 2006; Brodeur, 2010). No longer does the state retain a monopoly over the provision of policing services (Bayley and Shearing, 2001). Rather, the authorisation and delivery of security have become shaped by complex networks that integrate various state (or public) actors (e.g. police, intelligence agencies, regulators) with a diverse range of non-state (or private) actors (e.g. business, organisations and associations, community groups, private citizens). Considerable research has explored the convergence of such varied actors within a multiplicity of crime control contexts (e.g. Dupont, 2004; Cherney, O'Reilly and Grabosky, 2006a, 2006b; Fleming and Wood, 2006; Wood and Dupont, 2006). One important strand of research emerging from this literature has centred on regulatory systems. These very dimensions have been subject to considerable theoretical development and empirical specification by Grabosky – providing detailed insights into the complex regulatory systems and contexts within which these myriad actors must cohabitate.

In this chapter, we review key theoretical developments within criminology pertaining to the evolution of crime control within the modern state, and trace Grabosky's key contributions to this literature. In particular, we draw out several concepts central to his work that explain the complex interplay between state, and non-state actors within regulatory systems. This includes foundational theorising around the delivery of security in the modern state and the emergence of 'co-production' in crime control contexts, as well as his significant conceptual development and empirical explorations of state-centric, private-centric, and hybrid forms of regulation. Considered together, this work elucidates the key roles of both state and non-state actors, their capacities and regulatory opportunities available.

The transformation of crime control within the modern state

To fully appreciate the complexity of intertwined involvements of state and non-state actors in contemporary policing and crime control, one must first give conceptual consideration to how the proliferation of non-state orderings within the modern state have reshaped the delivery of security in all but a handful of jurisdictions where the state has aggressively maintained its primacy. The gradual ascendancy of neoliberal ideals as the predominant economic and political paradigm has brought with it widespread privatisation, marketisation, and increasingly dispersed forms of governance. Within criminal justice contexts, the state's longstanding role as 'guarantor of security' (Johnston and Shearing 2003, pp. 32) was also widely regarded to be substantially affected by these broader transformations, and supplanted by emergent public-private orderings (Bayley and Shearing, 1996; Grabosky, 1992, 1995b; Cherney, O'Reilly and Grabosky, 2006b). Notably, this process of 'multilateralisation' (Bayley and Shearing, 2001) has occurred in relation to the provision of crime control – with many policing or security-related roles becoming either commercialised or otherwise devolved to a range of non-state actors, and thus establishing broader networks of social control (Chang, Zhong and Grabosky, 2016; Brewer, 2017; Cherney, O'Reilly and Grabosky, 2006b).

The confluence of circumstances that have led to these profound changes in the way policing is delivered, and crime is controlled are numerous and interwoven. Some, like Bayley and Shearing (1996, 2001), contend that this trend is merely reflective of parallel shifts in governance more broadly occurring within the modern state itself: a product of fledgling economies in 1970s, the emergence of mass private property (see Shearing and Stenning, 1983; Kempa, 2004), as well as the decline of the Keynesian welfare state (see further, Newburn, 2001; Reiner, 2010). Others argue that the concurrent rise of what Beck (1992) terms a 'risk society' has also had a lasting impact on the ways criminal justice policy is conceived, and institutions operate. Here, it is suggested that risk management has emerged as a core technology that

provides a 'systematic way of dealing with hazards and insecurities induced and introduced by modernization' (Beck, 1992, p. 21). This has led to a move away from more traditional conceptions of the state (and in particular, the police) as 'crime fighters' engaged in episodic 'bandit-chasing', toward one that emphasises risk mitigation and crime control as being the key objective (Buerger and Mazerolle, 1998). These developments have also been driven by significant advancements in computing, communication and surveillance technologies in recent decades, which has dramatically increased the quantity and quality of information available to state and non-state actors alike (Dupont, 2004; Brewer, 2017). Accordingly, policing scholars characterise the complexion of modern policing and security as more than a straightforward devolution onto subordinate orderings, but instead embody a blurring of roles and capacities into a risk-based technologically-facilitated exercise constructed to respond to and control crime (Johnston, 2000; Bayley and Shearing, 2001; Waring and Weisburd, 2002; Dupont, 2004; Hoogenboom, 2010).

This fulfilment of the exercise has created a pluralised crime control landscape comprising myriad state and non-state actors – cooperating and competing with one another in pursuit of internal and external objectives. Dupont (2004) notes that the inherent uncertainty attached to the fragmentation of security responsibilities has compelled involved actors to seek order by reaching out and coordinating their efforts with other vested interests (although not necessarily *all* vested interests). This has led to the opening of new lines of communication, the development of previously untapped social connections and the creation of alliances in pursuit of ameliorating crime problems. The shared public–private models that have emerged as a consequence of these developments are both expansive and multifaceted, and have produced a labyrinthine network of security provision arrangements comprising a host of state and non-state actors (see further, Brewer, 2017). It is within this pluralised context that Grabosky's principal theoretical and empirical contributions are made.

Enabling crime control through regulation: toward a three-dimensional pyramid

Scholars have, for some time now, studied the role of the state within this transformed landscape and, in particular, explored regulatory action within criminal justice contexts through a state-centric lens. Some of Grabosky's most important contributions are located within this literature, explicating the myriad ways that state institutions can use regulatory levers to co-produce and/or form alliances with other non-state orderings in pursuit of crime control outcomes (e.g. Grabosky, 1995a, 1995b, 1996). That is, the state may implement or enforce policies designed to persuade external parties to address crime problems through the provision of educational programmes, training opportunities, additional resources or other incentives. The state may further

seek to induce private action by attaching stipulations to commercial agreements made with external parties. The state may also take more coercive action to compel external actors to implement practices related to crime control through the threat of financial penalty or legal sanction.

Grabosky (2010: 96) stresses the diversity of state action within such crime control settings, articulating that the role of state institutions, and particularly law enforcement has become one of:

monitoring the overall spaces in which they [non-state actors] operate, broadly defined, and one of ‘fine tuning’: manipulating incentives, accrediting private competencies and auditing third-party performance in order to facilitate the constructive contributions of non-government interests.

However, as Moore and Alpert (1993) point out, simply manipulating these conditions will not always produce desired outcomes. Using a community policing example, they argue that successful police engagement with community-based processes will also necessitate the ‘development of strong relationships with institutions and individuals in the community’ (Moore and Alpert, 1993: 112) – achieved only through sustained dialogue and interaction with non-state actors, which only then provides an adequate appreciation for the problems identified by the community at large. Elsewhere, Brewer (2014) also reiterates the importance of developing strong connections in the pursuit of co-productive crime control arrangements between state and non-state actors.

Accordingly, it is through a process of building robust relationships, alongside the careful use of purchasing power, incentives and regulatory levers, that state actors are able to transform ‘the marketplace’ in such a way that market outcomes fulfil a public good (Osborne and Gaebler, 1992: 280). As a means of affecting such transformation and harnessing the crime control capacities of non-state actors, Grabosky (1995b, 1996) identifies the range of basic ‘forms’ by which state activity can be shared or devolved. These forms, arranged from least coercive to most, include the provision of capacity building opportunities, offering incentives, the conferral of entitlements, the co-optation of external interests, record keeping and disclosure requirements, a required private interface, and conscription (see Table 1.1).

Grabosky (2010) notes that a state actor need not necessarily be bound by or rely upon a single regulatory form. Rather, they may elect to employ a variety of approaches – applying different forms to different actors, in different contexts, and even adopting a sliding scale for a single participant. This idea is consistent with findings of other prominent regulatory scholars, who have long touted the benefits of using such ‘mixed’ approaches (see Bardach and Kagan, 1982; Ayres and Braithwaite, 1992; Sparrow, 2000; amongst others). Elaborating on this point, Cherney (2008: 636) suggests that having such

Table 1.1 Regulatory forms

Regulatory form	Description	Most coercive ←
Conscription	Mandating/commanding external actors to carry out prescribed functions that limit the opportunities for crime.	
Required private interface	Requiring that targets of regulation interface with another external actor who is well placed to detect, prevent and disclose illegality on the part of their clients.	
Record keeping and disclosure requirements	Requiring the keeping and disclosure of records to prescribed authorities, with the aim being to enhance self-awareness and vigilance on the part of managers.	
Co-optation of external interests	Actively seeking the cooperation of external actors in furtherance of crime control. Such arrangements can vary from formal (e.g. detailed contractual specification), to informal (e.g. casual appeals to external institutions to take action).	
Conferral of entitlements	Bestowing certain rights or powers upon external actors to encourage private enforcement against crime problems.	
Offering incentives	Offering external actors incentives as a means of inducing compliance with policies/processes/procedures aimed at discouraging crime,	
Provision of capacity building opportunities	Providing external actors with training and/or educational programmes as a means of raising awareness regarding agency responsibility and the capacity to prevent crime.	Least coercive

Source: Adapted from Cherney, O'Reilly and Grabosky (2006a, 2006b); Grabosky (1995b, 1996).

flexibility in approach provides targeting bodies the ‘ability to escalate [and de-escalate] their responses’ according to the successes or failures of the specific techniques aimed at compelling non-state actors to mobilise in furtherance of crime control outcomes.

Underpinning the scholarly debates surrounding the application of such ‘mixed’ approaches lies the concept of ‘responsive regulation’ (Ayres and Braithwaite, 1992). Responsive regulation aims to achieve regulatory outcomes by combining gentle persuasion with big sticks, or, put another way, through negotiated compliance and, if needed, the application of sanctions. Braithwaite (2000) argues that flexibility is the key to the delivery of responsive regulation, so that it can be adapted and scaled to suit the regulatory context (i.e. to address specific problems, different actors, or environments). Where previous regulatory narratives have favoured the more traditional command and control styles, responsive regulation emphasises efficiency and effectiveness, as well as the realisation of outcomes through decentralised and at-a-distance kinds of state regulation. Responsive regulation therefore seeks to promote an internal capacity for self-regulation by non-state actors, whilst also fomenting a commitment to assert control over relevant systems in ways that are aligned with regulatory goals (Parker, 2002). Accordingly, having on hand a robust repertoire of strategies (i.e. a mixed approach) is fundamental to regulatory efforts aimed at harnessing the crime control capacities of non-state actors. The state cannot rely on only one regulatory form or instrument to affect desired outcomes, and instead necessitates ‘a layered set of structures that [are] able to initiate cooperation in crime reduction based on the willingness and competency of a third-party to take action against crime’ (Cherney, 2008: 639).

This is not to say that crime control activities undertaken by private actors are exclusively undertaken at the behest of the state. Rather, Grabosky and colleagues (i.e. Grabosky, 1997, 2010, 2013; Gunningham and Grabosky, 1998) recognised that the state is not necessarily always in the best position to direct regulatory outcomes, and that various actors external to the state’s regulatory apparatus (e.g. the private sector or even external third parties) can also wield tremendous power within regulatory systems. In particular, they noted that private sector actors routinely self-regulate their activities – either entirely voluntarily, or as a consequence of direct or indirect involvement from the state. We can see examples of self-regulation across numerous critical infrastructure industries, including the financial and telecommunication sectors, who in an effort to reduce cybercrime comply with mandatory and voluntary reporting schemes, but also share information as a means to prevent potential losses (Chang, 2012; Chang and Grabosky, 2017). Furthermore, Grabosky and colleagues (Grabosky 1997, 2017; Gunningham and Grabosky, 1998) acknowledged the potentially significant influence of external third parties (either commercial or non-commercial interests) as regulatory actors. For example, in cases where the requisite security of safety standards are not

met, insurers might refuse to insure against loss, industry associations may choose to withdraw support or accreditation, retailers and importers concerned with their brand image may switch to otherwise compliant suppliers, or consumer groups (or even influential individuals) may generate enough publicity to affect market preferences and drive regulatory outcomes (Grabosky, 2013).

Recognition of this pluralistic landscape led Grabosky and colleagues (Grabosky, 1997, 2010; Gunningham and Grabosky, 1998) to expand upon prevailing state-centric models of regulatory enforcement and provide enhanced understandings of the diversity of regulatory instruments available to *all actors* involved in such systems. To frame this work, they conceived of a three-dimensional regulatory pyramid that addresses perceived shortcomings of previous state-centric models (Grabosky, 1997), and permits the mapping of myriad regulatory instruments or institutions, be they state, private or hybrid.

This model is predicated on the regulatory pyramid, first proposed by Ayres and Braithwaite (1992) who argued that effective regulation necessitates the tailored use of a graduated scale of regulatory instruments as a means of achieving regulatory goals, which include, at the bottom (and therefore most frequent), efforts at persuasion, moving upwards toward issuing of warning letters, civil penalties, criminal penalties and, at the top, the suspension or revocation of licences. They suggested that although each instrument can stand alone, the combination of the instruments could be more effective. In augmenting this work, the three-dimensional pyramid combines elements of state, self-regulatory or third party activity and is comprised of three faces: first party (the state as the regulator; i.e. Ayres–Braithwaite original regulatory pyramid), second party (the regulated entity as a self-regulator), and third parties (both commercial and non-commercial interests) (see Figure 1.1). Grabosky (1997, 2010) notes that, theoretically, any regulatory action can be precisely mapped on or within the pyramid – the horizontal location reflecting the institutional (or inter-institutional) sponsor(s) of said action, and the vertical location reflecting the degree of coerciveness deployed (a higher location denoting the use of more coercive regulatory instruments) (Grabosky, 1997, 2010).

It is not difficult to envisage the application of the three-dimensional pyramid within crime control settings. Informal institutions or groups engaging in less coercive forms of social control will be represented at the base of the pyramid, located some distance away from the more formal instruments deployed along the state facade (Grabosky, 2010). Elsewhere, the frequent use by second and third parties of private civil remedies for crime control purposes (see Mazerolle and Ransley, 2005), or the likes of anti-social behaviour orders in the UK will be also be located near the apex of the pyramid (Grabosky, 2010).

Figure 1.1 The three-dimensional pyramid.

Source: adapted from Grabosky, 2010.

Moving forward: this volume and beyond

In seeking to push this work further, Grabosky (2010: 80–81) laments that ‘current scholarship might not have attained the sophistication in conceptualisation and measurement’ to allow for the formal representation of such regulatory systems – especially comparatively. Rather, he suggests that further empirical expansion of his original concepts is warranted, going so far as to suggest that

the next generation of regulatory scholars may include those who might wish to undertake more precise description or modelling of regulatory systems ... permit[ting] a degree of hypothesis testing and theory building that has thus far been largely absent from the literature on regulation.

Along these lines, Grabosky’s important conceptual contributions are explored in this volume and developed further through empirical studies presented by this next generation of scholars. Uniquely, the editors sought contributions from individuals who had previously enjoyed a close personal connection with Peter Grabosky – each having had the opportunity to work directly with him at The Australian National University as they established their research careers, and embarked upon their own innovative and distinct programmes of research.

The collection of theoretical and empirical work will be explored in this book in four parts. Part I sets the scene. In this first chapter co-authored by the editors, we introduce and depict, conceptually, the roles and regulatory systems binding state and non-state actors in the authorisation and delivery of security. It is here where an intellectual portrait of Peter Grabosky’s contributions to this scholarship is also introduced.

Part II of this book explores the varied role of the state as a sponsor of regulatory activity through empirical studies undertaken by contributors.

In Chapter 2, Lorraine and Adrian Cherney outline how Grabosky's path-breaking work can serve as a toolkit for policy-makers to better understand the task of regulation and effective compliance co-production. This is accomplished through an analysis of drug enforcement and gambling regulation, which draws out the multiplicity of ways in which states can enlist the capacities of third parties in the pursuit of various crime control objectives. Through the cases presented, they interrogate the ways that such regulatory systems operate, and provide readers with enhanced understandings of their form and function, as well as the risks associated with an increased reliance upon non-state actors in the pursuit of crime control objectives.

In Chapter 3, Julie Ayling studies the limits of state involvement in the enforcement and prevention of transnational environmental crime. She draws upon Grabosky's important work on meta-regulatory approaches to the governance of security as a means of suggesting a way forward for addressing this problem. In particular, she emphasises the need for carefully scripted interventions, including those that enrol and incentivise well-placed third parties who are otherwise disengaged in such activities. She theorises on the potential for further state-led meta-regulatory efforts within a chain of events and decisions that could induce private preventive or enforcement actions.

The discussion of state-sponsored approaches is wrapped up in Chapter 4, where Jennifer Wood examines how regulatory regimes might be re-aligned to improve the provision of state-provided services. Her chapter links to her previous work on regulation through 'enrolment', and explores recent initiatives designed at moving police beyond crime-based regulation toward the regulation of health and criminogenic risks. Her findings document an expanding horizon of institutional forms and relationships designed to minimise coercive regulation through punishment and incapacitation. Such developments, she argues, reveal the importance and increasing salience of Grabosky's ground-breaking schema of responsive regulation in three-dimensional space.

Part III of this book examines second and third parties as sponsors of regulatory activity.

In Chapter 5, Robyn Holder looks past state-centric regulatory perspectives to explore the emergence of non-state actors within a domain of public prosecutions, where there has arguably been a weakening of state institutions. Here, she accepts Grabosky's invitation to further explore the democratisation of regulatory activity, and to look beyond that which is sponsored by the state. Her chapter examines the capacities of third parties to request, demand, press for and/or conduct a prosecution for wrongdoing in instances where the state is either unable or unwilling to take action. She shows that such actions may be undertaken at different levels, by individuals, or through collectives – and may involve collaborating with, or even co-opting public prosecution to take

action. In this way, third parties, energised by a meld of private and public interests, can effectively serve as legal, social and political actors.

Building on these themes, Russell Brewer, in Chapter 6, looks at this private-centric narrative through an empirical study that demonstrates how non-state actors can ascend to become the most strategically positioned actors within a security network. By quantitatively mapping the extent to which state actors mobilise their connections to address crime problems on the waterfront, Brewer identifies key state, but also non-state 'brokers' that are capable of bridging structural barriers and modulating the flows of network resources. An associated qualitative component explores the driving forces, illustrating how non-state actors can be entrepreneurial in terms of elevating their structural positioning and reach across a network.

Moving further offshore in Chapter 7, Jade Lindley charts the assemblage of state and non-state actors, and their combined regulatory efforts involved in combatting maritime piracy. With her focus on the region off the Somali coast, she evaluates presiding legal and regulatory frameworks, as well as actor interactions and capacities to produce an original narrative depicting regulatory pluralism in action. Of particular interest, are her findings detailing the extent to which non-state actors (in this case private shipping interests) are capable of mobilising extensive, multi-state responses to successfully suppress criminal (and commercial) threats.

In Chapter 8, Gregor Urbas builds upon Grabosky's varied work exploring the regulatory responsibilities and capacities of commercial interests in online contexts. Here, Urbas elucidates the untapped potential for telecommunication companies to act as key information brokers – as both repositories and gatekeepers to data on user identities and activities. Through his detailed examination of the regulatory systems and environment driving commercial security practices in this domain, he develops a more nuanced understanding of both the nature and limits of commercial contributions towards state efforts aimed at detecting, enforcing and prosecuting cybercrime.

In Chapter 9 Lennon Chang examines the capacities and consequences of the participation of individual (private) Internet users in the investigation of criminal activities online. Traditional police resources are no longer sufficient to investigate crime in the digital age and manage cybersecurity. Building upon Grabosky's work on the role of non-state actors in the regulatory process and co-production of compliance, Chang discusses how democratisation of technology facilitates and empowers Internet citizens to become Internet vigilantes and become co-producers of security in the digital era. Drawing upon his past research on cyber crowdsourcing in the greater China region, Chang details types of Internet vigilantism, the characteristics of the Internet vigilantes, and the legal and ethical issues of citizen co-production of security in the digital era, an emerging but under-researched topic.

Part IV of this book seeks to move beyond the state- and private-centric systems explored thus far and chart new regulatory dimensions.

In Chapter 10, Benoît Dupont presents an empirical study that explores a domain where strictly state-centric and private-centric regulatory systems have thus far failed – the Internet. Here, Dupont leverages Grabosky's earlier work on private regulation and modes of public–private exchange to examine the linkages of transnational state and non-state actors and initiatives constituting the 'global anti-cybercrime web', and to reveal the presence of a polycentric system of governance. His analysis undertakes to map these interactions, and in doing so offers important new insights about the composition and operation of such polycentric systems.

In the final chapter of this book, the editors draw together and summarise the key theoretical and empirical strands that have emerged through the essays presented in this volume. In doing so, they revisit Grabosky's academic contributions and its broader influence. They conclude by sketching directions for future research.

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