Acknowledgements

This study arises out of a long-term research project which has had several homes and the support of many friends. The magnitude of the task set at the outset was ambitious enough but the project grew as the fieldwork developed and became sustainable only with help, support and encouragement from many individuals and institutions.

The overall ambition of the research was to provide a rich description of China’s criminal process in action in a way that would better inform those who have responsibility for its structuring and management, those who work in it on a daily basis and those interested in the process of law reform. The research set out to correct an over-emphasis upon purely procedural law by looking at the whole process and those engaged in it through a widespread empirical engagement with the system as it operates in everyday cases. It was and is intended to contribute to dialogues about China rather than in any way to foreclose discussion.

No research project can be comprehensive, the more so in a country as large as Mainland China, but empirical research can often provide an account that transcends the knowledge and experience held by individuals who work within the system by identifying interrelationships and, hopefully, picking out the principles and values that represent the glue that keeps the whole process together.

In many jurisdictions today, the process of reform of the law and its institutions and the questioning of existing arrangements has given more significance to research. The current project seeks to advance this process on the basis that a rational engagement with reform should proceed from a fuller understanding of the whole system and that a basic requirement of informed change is that the system itself should be self-aware. It is indeed difficult for those who work within a complex system to comprehend the whole and see how component parts inter-relate and interact and it is heartening that we received cooperation from so many working within China’s criminal justice system. Much more needs to be done but we hope that this project will advance knowledge of China and act as a spur to others better placed to intervene in intelligent debates about the way forward.

This research attempts to offer a broad factual basis for better understanding a highly complex criminal justice system through recourse to empirical and verifiable data and, as will become clear, through giving prominence to the voices of those who work within it. We emphasize that our research is intended to give a holistic view of the system and to the views and opinions of those who work within it: the focus is not on individual or atypical criminal cases but on the routine everyday case that confronts the courts.

The origins of the project on which this book is based go back many years to days at Warwick Law School when Professor Geoffrey Wilson and I thought that it really was worth knowing more about China not for what we could get out of it by way of overseas student fees but because of the intellectual challenge posed by comparative scholarship which in our understanding sees law and the study of law as about the quality of life rather than confined to seeing it in terms of procedural technicalities or simply as one
method for settling disputes. Throughout the long years that have passed since then, Geoffrey and his wife Marcia encouraged me and gave me confidence that it could be done despite the inevitable and many setbacks along the way.

The core of the project has been primarily located at The Chinese University of Hong Kong, Faculty of Law under a team led by Professor Mike McConville having initially started life at the School of Law, University of Warwick, continued later at the School of Law, City University of Hong Kong. Each of these institutions has played a key role in helping the research and providing ancillary resources at times of need.

The individuals who provided constant support for the project at The Chinese University of Hong Kong were: Dr. Eric Wing Hong Chui (now based at the University of Hong Kong); Alice Chan Ka Yee; and Paul Leung Po Sang (now barrister-at-law in private practice in Hong Kong). Eric helped with the training of the researchers and provided general support at all stages. Paul provided all-round research assistance until he left to take up practice at the Bar. Alice has been with the project from the outset and undertook almost every task associated with a major field endeavour and did so with unflagging energy and good will.

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The project was undertaken with the encouragement and advice of friends and partners from Mainland China. Their commitment to law reform in China is of long-standing and it has been a privilege to work alongside the leading academics in Chinese Criminal Procedure Law. None of this research could have been achieved without their help.

Special thanks go to our three researchers. Their efforts in the field were unyielding despite the novel challenges presented and the occasional obstacles placed in their path. As faithfully as they could, they implemented the research instruments and used ingenuity in adjusting to new environments. They took the novel challenges presented by fieldwork in China in their stride and stuck to their task whatever the difficulties encountered. Their work will, we hope, inspire others in Mainland China to undertake similar research projects so that information on the functioning of the Chinese legal process in general becomes richer.

In addition, we are grateful to those judges, prosecutors and lawyers who provided direct or indirect support to this research. In doing so, they wanted to assist in gaining a richer understanding of what they see as the real issues of the criminal justice system so that those who know China well can better address the problems they confront. We hope that they will fully appreciate our gratitude and understand that we are unable to mention their names and affiliations.

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In a project of this kind and dealing with a subject that is fraught with all sorts of challenges, the usual disclaimers need reinforcing. The views expressed in this book are those of the project team alone and are not to be taken as the views of any others who have assisted in the project or have given support and encouragement to the research enterprise.