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## PREFACE

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I wrote this casebook not just to use as teaching materials for my own class, but also to provide professors and students everywhere with a set of crisp and flexible materials for the study of criminal law. The book is divided into 29 chapters, followed by an appendix with selections from the Model Penal Code. I deliberately wrote a larger number of shorter chapters so that each chapter would correspond to a single topic. The goal of the book is to help students learn the criminal law and to stimulate a wider discussion of it among students and scholars alike.

Each chapter is divided into three major sections. The A Section focuses on a doctrinal overview of the subject, presented without using secondary materials such as law review excerpts. The goal of this section is to give the reader a bird's-eye view of the chapter's topic. I find this is helpful so that readers have a sense of the outer scope of the topic before they delve into more particular investigations of each doctrine. In short, students need some context before they learn the particulars. Then, the B Section (labeled "Application") focuses on applying the doctrine to new and complex fact patterns. Readers are presented with appellate opinions, followed by notes and questions, which will help develop and hone an essential skill: applying the law to novel facts. Consequently, cases are selected with an eye toward this pedagogical goal. Instead of reprinting cases that merely announce the law, the chapter focuses on cases that present complicated and contested applications of the law. Many of the cases are new—from the past 15 years—though I have also kept many of the older canonical cases that are rightly regarded as classics of criminal law teaching. Finally, each chapter concludes with a brief section labeled "Practice & Policy" that asks students to consider some of the deeper implications, both practical and theoretical, of the material they have learned in each chapter.

Please note that I have followed several conventions while selecting and editing the cases in the book. First, internal citations within the cases are omitted without indication, in order to make the cases more readable. Second, deletions within cases are marked by ellipses (. . .) rather than asterisks (\* \* \*). Third, the ellipses at the beginning or end of a paragraph may indicate that

sentences were deleted from the paragraph or that entire paragraphs were deleted. In other words, the reader should not assume that ellipses at the end of a paragraph indicate that the deleted material was solely contained within that original paragraph. Finally, parallel citations were removed without indication.

The fourth edition includes several notable additions:

1. A complete overhaul of the materials on accomplice liability, in Chapter 21, including a simplified case for the “purpose versus knowledge” debate, a discussion of when purpose may be inferred from knowledge, as well as a clearer presentation of the natural and probable consequences doctrine through better case selection.
2. Chapter 11 on reckless killings now includes a comprehensive discussion of the debate between recklessness or negligence as the required mental element for involuntary manslaughter. Given the variety among jurisdictions, this issue has plagued hornbook writers and readers for years, so Chapter 11 now includes a systematic review of all fifty states, showing that more states use recklessness than negligence as the standard. The goal of the discussion is to add precision to this debate and also to ensure that students understand that what matters for practice is the law in the jurisdiction of a particular case, though of course general trends are also of interest. In that sense, the new materials demonstrate that the trend favors recklessness.
3. In Chapter 7, Mistakes, the main text has been edited to clearly explain the complex conceptual issues that are sometimes hard for students to grasp.
4. Chapter 24 on self-defense now includes more aggressively edited cases, especially the *Norman* case, which has been shortened to avoid repetition of facts.

In addition to those changes, potential adopters are advised to remember the following changes that debuted with the third edition, which may remain of particular interest:

5. Chapter 16, Theft & Property Offenses, has been updated to include robbery and arson. As these topics are tested on the bar exam, some professors may wish to add these pages to their syllabuses.
6. Chapters 9 and 12, on premeditation and felony murder, have both been completely overhauled to take into account recent developments, especially the repeal of felony murder in California.
7. Chapter 25, Defensive Force by Police Officers, includes a new introduction referencing the nation-wide protests over police brutality and linking the reform proposals from those social movements with the particular doctrines that govern the use of force by law enforcement.

8. Chapter 2, Punishment, now includes a discussion of mass incarceration and the prison abolition movement.

The fourth edition, like the third and second before it, also includes integrated prompts directing students to watch and analyze the fact patterns in a series of original courtroom videos at <https://www.casebookconnect.com/> that were written and produced to accompany *Criminal Law: Doctrine, Application, and Practice*. The videos are also available on the Aspen Publishing product page for this casebook. For students accessing the digital casebook through Casebook Connect, the videos are comprised of four major vignettes, each one broken into four short segments of about three or four minutes in length. The idea behind the videos is to give students an extra opportunity to understand the implications of the legal rules that they are studying, and also another opportunity to *apply* the law to a hypothetical example—this time rendered in vivid detail on the screen. My assumption is that students will review the videos at home while they read the chapter. On occasion, though, professors may wish to replay the video during class to stimulate a discussion regarding the topic presented in the video. Learn more about the videos at [www.aspenpublishing.com/Ohlin-CriminalLaw4](http://www.aspenpublishing.com/Ohlin-CriminalLaw4).

A final word is in order about the Model Penal Code in the appendix. The American Law Institute has, for several years, engaged in a complex process for revising the materials on sexual assault and related crimes. The process included multiple drafts, deliberation by experts, amendments, and votes. The final version of the new code provisions on sexual assault is scheduled to be published by the ALI in its final form in 2025, so the fifth edition of the casebook will include the final provisions in the appendix. I felt it inappropriate to include the draft provisions in the appendix while they are still being revised and prepared for publication by the ALI reporters, and are therefore still subject to change. Where appropriate, however, I have included a discussion of the draft provisions in the main text of the casebook chapter on rape.

Please feel free to send comments and suggestions for the fifth edition; your feedback is both welcome and essential for future revisions.

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