

Preface

FOCUS APPROACH

Overview

As the title suggests, the purpose of *Evidence in Focus: A Practitioner's Approach*, is to balance academic rigor with the perspective of a litigator.

Designed to be a student-friendly text, *Evidence in Focus* realizes my own vision for teaching evidence by defining and discussing the rules in the context of how judges actually apply them. Approachable writing, clear explanations, and real-world hypothetical problems support independent learning and connect theory to practice. Fascinating cases that narrate the trials of intriguing characters breathe life into legal theory, engage students, enliven classroom discussion, and develop critical thinking skills. Attempts at humor and references or links to popular culture are peppered throughout the book. In fact, almost every chapter suggests audio or video clips meant to entertain and to enhance student learning.

I also do not shrink from providing critical analyses of rules that fail to meet their stated purpose or reflect outmoded ways of thinking. While on their face the rules may appear to have a neutral application, they cannot be divorced from the historical period in which the concepts emerged (in the eighteenth and nineteenth centuries, or earlier) or the interests of the wealthy white men who wrote them. Viewed in this context, it becomes apparent why some rules and doctrines have a disproportionate impact on people of color and other marginalized groups. The rule dealing with the introduction of prior convictions is one example; the law on flight evidence is another.

Additionally, an equitable and just understanding of historical common-law principles recognizes those instances in which the original impetus was, and the persistent result has been, evident racism or sexism or both. Restrictive laws on witness competency are one example; the treatment of sexual assault victims is another. Both merit our critical analysis.

CONTENT SNAPSHOT

The structure of the book is designed to be accessible. Every chapter breaks down each rule of evidence into its component parts, explaining 1) how each part functions separately, 2) how each integrates with the remaining text, and 3) how the text fits in as part of the overall structure of the rules.

In the Introduction, I outline the purpose of the book and discuss foundational principles of the Rules of Evidence. I also provide an overview of how criminal and civil cases arrive at trial.

Part 1 covers the rules of relevance, including logical and legal relevance, conditional relevance, balancing the probative value against the danger of unfair prejudice, and the five so-called Special Rules of Relevance.

Part 2 covers the rules of character evidence, as well as impeachment, rehabilitation, handling forgetful witnesses, and the unique rules for character evidence in sexual assault cases.

Part 3 covers the rule on hearsay and its various exemptions and exceptions.

Part 4 covers the rules on opinion evidence and its limitations, as well as specific problems with forensic sciences.

Part 5 covers the constitutional rules of evidence, including the right of confrontation and compulsory process/due process.

Part 6 covers the rules on privilege and its defenses.