

Preface



This book is designed to be used as a textbook for paralegal courses covering criminal law and procedure. In addition to discussing the organization and function of criminal law, it covers the most common types of criminal offenses and the procedures used to enforce these criminal laws at the federal and state levels.

Because it is **designed specifically for paralegals**, it describes the various roles played by paralegals and focuses on providing the skills and knowledge students will need to function effectively in jobs related to criminal law. It also contains discussions of the role of police and lawyers, the basic principles of criminal law, constitutional limitations, and trial procedures that **can benefit criminal justice majors, government majors, pre-law students, and anyone wishing to know more about criminal law**.

As with all books of this type, the authors have been faced with the challenge of covering both federal law and variations in state laws. We have tended to focus on federal law because it is relevant to readers in all parts of the country, but we have also discussed how state laws and procedures vary. Because there are so many variations among the states, and even between judicial districts within a given state, it is imperative that readers research their own state and local statutes and procedural rules to see how they differ from the ones used as illustrations in this book. This book includes instructions and Application Exercises designed to teach readers how to find and apply the laws and procedures of their own state and local area.

Another feature that sets this book apart from many of its competitors is the extent to which we have included discussions of white-collar crime. Discussions of criminal codes, the exhibits, and the Application Exercises all include references to these types of crimes. References to juvenile law are also included where relevant.

NEW TO THIS EDITION

While covering the same topics and maintaining the same organizational structure, the third edition has expanded discussion of some of these topics and incorporates new, more current examples of how our criminal justice system works.

Some of these additions include expanding coverage of laws dealing with insurrection, rebellion, sedition and hate crimes; and prosecutions of law enforcement personnel for having violated criminal statutes while carrying out their police duties: officer kneeling on George Floyd's neck; officer shooting

Daunte Wright with a service revolver rather than a taser; and officers shooting Breonna Taylor while serving a no-knock warrant. We have also expanded our discussion of “hate crimes” to include a discussion of how it relates to the death of George Floyd and its use in the prosecution of the Georgia jogger case.

In Chapter 7, we have added discussions of the self-defense claims raised by George Zimmerman and Kyle Rittenhouse in their respective prosecutions for murder. The Rittenhouse case raises related issues of vigilantism and gun laws. Chapter 12 now includes a discussion of how court system adopted to the challenges of the Covid-19 pandemic.

ORGANIZATION OF THE BOOK

PART 1: CRIMINAL LAW

This section of the book provides a general overview of the criminal justice system. Chapter 1 discusses the purpose of the law and the differences between criminal law and civil law, as well as the procedural stages of a criminal case. It also explains the distinct roles and responsibilities of the different types of people involved in the day-to-day operation of the system.

Chapter 2 explains the underlying principles and concepts reflected in the criminal law, and Chapter 3 provides an overview of the types of offenses covered by the criminal law. In our discussion of substantive criminal law, we provide a sampling of some of the common offenses included in most criminal codes and examples of charges filed in some highly publicized cases. Special emphasis is placed on learning how to interpret and apply statutory language.

PART 2: CRIMINAL PROCEDURE: FROM COMMISSION OF THE OFFENSE TO PLEA BARGAINING AND DIVERSION

Part 2 shifts from the substance of the criminal law to how violations of those laws are discovered and investigated, how alleged violators are arrested and charged, and what attorneys on both sides do to prepare for criminal trials.

Chapter 4 covers the actions taken by police in investigating alleged criminal behavior and arresting alleged offenders. Chapter 5, in turn, focuses on the prosecutor’s role and the charging process, while Chapter 6 explains the role of the defense attorney and the differences between private counsel, appointed counsel, and public defenders.

Chapter 7 covers the potential defenses that attorneys can assert on behalf of their clients. Chapter 8 explores the actions taken by attorneys and paralegals working for the prosecution and defense to learn more about the facts of the case though the discovery and disclosure procedures.

Chapter 9 covers pre-trial motions relating to substitution of judges, joinder and severance, competency, and motions to exclude key pieces of evidence. It then goes on to discuss the plea-bargaining process. It also includes a discussion of diversion into specialized treatment programs.

PART 3: CRIMINAL PROCEDURE: TRIALS AND THEIR AFTERMATH

In the final part of this book, we present the ways in which trials are conducted and how the sentences of those convicted are determined. It also covers appeals and other post-trial actions that defense attorneys can take on behalf of their clients.

Chapter 10 sets the stage for our coverage of trials, sentencing, and preparation for appeals by reviewing constitutional provisions affecting the conduct of criminal trials and discussing how evidence is presented in trials. Chapter 11 then discusses the things that attorneys and paralegals do to prepare for a trial. It includes preparation for jury selection and preparation of exhibits, motions, witnesses, and electronic presentations.

The actual conduct of the trial itself is covered in Chapter 12, where each stage of the trial is discussed in detail, from jury selection to post-verdict motions.

Chapter 13 addresses the sentencing phase of a case.

After discussing the types of punishments that courts can impose, it goes on to examine the amount of discretion judges have and the role of sentencing guidelines. From there, it goes on to cover sentencing procedures and mechanisms for seeking modification of a sentence.

After providing an overview of the appeals process, Chapter 14 discusses the timing of an appeal, the preservation of the record, and alternative methods of challenging criminal convictions. Finally, Chapter 15 deals with collateral remedies ranging from *habeas corpus* actions to state post-conviction relief, civil proceedings in order to expunge or limit access to criminal records, civil recovery of assets that were seized as part of the investigative process, and challenges to summary suspensions of driver's licenses.

SPECIAL FEATURES

USE OF LEGAL DOCUMENTS FROM REAL CASES

As in most texts of this type, we will frequently reference statutes and court decisions to explain and illustrate principles of criminal law and criminal procedure. In addition to including excerpts from featured statutes and cases, we include arrest reports, indictments, criminal informations, and other legal documents from cases that have received national attention.

INTEGRATION OF HYPOTHETICAL CASES

Throughout this text, we use five hypothetical cases to illustrate how a number of types of crime are handled at the various stages of the criminal justice process. One case involves a state reckless homicide charge related to an accident involving a driver who had been drinking alcoholic beverages. The second involves charges related to illegal drugs and weapons, and the third involves a white-collar crime, in which a registered securities agent is charged with

misappropriation of customer funds. Sexual assault charges brought against the complaining witnesses' employer are presented in the fourth hypothetical case. In the fifth case, a police officer applies force to remove a passenger from a vehicle pulled over for an alleged traffic violation.

These cases are integrated into the appropriate chapters throughout the book, where they are used to illustrate questions of statutory interpretation and criminal procedure. They are also incorporated into some of the Discussion Questions and Application Exercises. Initial facts about the nature of the crimes involved in these cases are presented in a separate section following this Preface, which should be read in conjunction with Chapter 2 and then referred to again when reading most of the following chapters.

PRACTICAL SKILL DEVELOPMENT

This book incorporates a variety of pedagogical techniques for developing analytical and drafting skills. Most chapters will include excerpts from statutes, court opinions, investigative reports, or court filings.

Discussion Questions raise controversial issues that require legal analysis and argumentation. The Application Exercises involve legal research and the drafting of various reports and legal documents as well as legal analysis.

STUDY AIDS

This book includes standard reader aids such as marginal definitions of key terms, a chapter summary, and Review Questions. An instructor's manual includes suggested answers for all the Discussion Questions, Review Questions, and Application Exercises. A computerized test bank is also available to help teachers make the most effective use of this book.

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