

Cases and Problems in Criminal Law

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SEVENTH EDITION

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Preface

This casebook delves into the theory and philosophy of criminal law as they emerge from the practice of criminal law. The authors have designed the book to teach students how to analyze problems like a lawyer who practices criminal law.

Suppose a client comes to a lawyer with a difficult legal problem, involving a complex set of facts. The lawyer will begin representation by interviewing the client and witnesses, performing the necessary research of the legal issues, and finding a cluster of cases and statutes, usually from the jurisdiction in which the problem arises. In order to advise the client (and—if necessary—to litigate the case), the lawyer must analyze, distinguish, reconcile, and interrelate the authorities in the research cluster, by viewing them as a group that indicates the direction of that state's law, as well as seeing them separately as they each apply to the client's issues.

The goal of this book is to recreate the lawyer's experience for the law student by setting a task, by way of an introductory Problem, at the start of each chapter. The cases and statutes follow in traditional casebook form, offering the student the tools to address the Problem. The role of the teacher is to ensure the student's formative knowledge acquisition of the material in the cases and statutes, and then to test that substantive knowledge by working through the Problem. By placing analytical skill-building squarely within the doctrinal textbook and, by extension, within the doctrinal classroom, this textbook gives students an opportunity to apply the knowledge they are acquiring throughout the course. Moreover, we have ordered the chapters so that students will review material from the earlier part of the course as they move into more complex legal doctrine later in the course. We have placed notes throughout the chapters to help students think about the Problem as they read the material.

We have selected cases that have interesting facts, raise issues that tend to be central to the topic of the chapter, and that contain understandable analyses by the courts. We have edited the cases with an eye toward making them readable and comprehensible for first-year students. In most chapters, the main cases come from a single jurisdiction (the jurisdiction in which the Problem takes place) and are presented chronologically. Practicing lawyers generally focus on cases in the jurisdiction where the case is to be tried, trying to understand and reconcile them. We want our students to do the same.

This book is primarily a tool for developing skills, while working through the intricacies of the doctrine of criminal law. While the materials should enable the professor to explore the traditional principles of criminal law, greater breadth of

coverage can be obtained from a good treatise or hornbook, such as LaFave, *Criminal Law* (West Academic), which we consider the best of its kind.

While we believe that the approach taken by this textbook is pedagogically sound, we have learned that students enjoy taking on the role of lawyer. This approach does demand more work from them. Not only must they read the cases, they must try to apply the reading to the Problem. We also ask them to prepare an outline of an analysis of the Problem, based on the authorities in the chapter. All of this takes more time and effort, but they do it and seem to enjoy doing it. They know that they are reading the cases as a lawyer would, for a specific purpose: to resolve the Problem.

MYRON MOSKOVITZ AND AMY DILLARD