Criminal Law
Criminal Law

Cases and Materials

FOURTH EDITION

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This casebook is our attempt to freshen and vivify the study of criminal law in several ways. We use theoretical perspectives and questions as a framework for prompting students to reflect on the general purposes of law and government. In doing so, we hope to acquaint them with a spectrum of controversial and stimulating contemporary approaches, from liberalism to critical theory. At the same time, the book is unusually rich and varied in its presentation of substantive material. These features allow unprecedented flexibility in tailoring an introductory course in criminal law to your interests and those of your students.

We bring a variety of insights and points of view to criminal law. In addition to our backgrounds in criminal law, our publications and teaching experiences extend to many related areas, such as criminal procedure, trial advocacy, analytical jurisprudence, feminist theory, critical legal studies, and evidence. Insights from all these areas are pervasive throughout this book.

While most casebooks focus primarily on homicide as the illustrative crime, this book offers an exciting menu of opportunities to teach substantive criminal law in different ways. In addition to its comprehensive coverage of homicide, it also features a long section on rape that draws extensively on new scholarship about current controversies. Our treatment of property crimes includes stimulating chapters on theft and other “advanced” property crimes.

The book also provides the reader an opportunity to consider in depth the theoretical and practical issues posed in cases involving white-collar crimes. Several chapters and sections of chapters ask students to focus on the increasing interaction between civil and criminal law. (This is particularly relevant since most students will not end up practicing criminal law.) The interaction is explored in such questions as: When is a breach of contract criminal false pretenses? When is a negotiating threat extortion? When is a company’s contribution a bribe? When does misuse of a computer or trade information constitute criminal theft?

Moreover, this book introduces students to a variety of theoretical perspectives in a clear and accessible way. Throughout the book, we explain and employ such perspectives as moralism, liberalism, economics and law, critical legal theory, feminist theory, and critical race theory, and we focus attention on their practical implications.

The first chapter asks students to consider controversial applications of criminal law and invites them to formulate the purposes and boundaries of criminal law. It
also offers a brief introduction to different ways of looking at the criminal sanction’s origins and justifications. Chapter 2 provides an array of perspectives on punishment that differs markedly in scope and depth from the treatments available in other casebooks. It includes materials on the history, the psychology, and the economics of punishment—with comprehensive coverage of capital punishment, the pros and cons of incarceration, alternative sentencing, the Federal Sentencing Guidelines, and the proposed revisions to the Model Penal Code’s sentencing provisions.

The substantive and doctrinal chapters that follow incorporate the perspectives of the introductory chapters. Finally, Chapter 16 describes a variety of theoretical perspectives in greater depth. Depending on time constraints and preference, the instructor can use this chapter in the introductory weeks or as background to enrich discussion of substantive topics throughout the course.

The cases are selected to excite students and provoke their interest. Many raise questions about such contemporary concerns as civil rights, issues affecting women and people of color, economic rights and relations, and public policy. In many instances, the cases stress evolving and controversial questions concerning the role of law and politics. Other cases touch on political scandals from Watergate to Irangate to the Clinton impeachment hearings.

Some of the cases directly implicate the interests of students. They involve, for example, defendants who used university computers without authorization, stole examination questions, or referred police informants to campus drug dealers.

The book is designed to provide an unprecedented range of options. The theoretical and substantive materials are presented in such a manner that the instructor can choose the coverage most appropriate for his or her class and can vary and tailor the format from year to year.

We are greatly indebted to our student research assistants for their exemplary, imaginative, and significant contributions to all phases of the creation of this casebook. We wish to express our gratitude to the following individuals: at the University of California, Hastings College of the Law, Bret C. Birdsong, Michael A. Cox, Benjamin P. Fay, David J. Huffaker, Stefan P. Kennedy, Geoffrey H. Simon, Lucia M. Walters, and Kathryn P. Wilke; at the University of Connecticut School of Law, Christopher Kelland, James Scrimgeour, and Kevin Shay; at George Washington University Law School, Elisa D’Andrea and Rubin M. Sinins; at the University of Illinois College of Law, Oreté Jonas, Bates McIntyre, Mike McMorrow, Michael Schafler, Aylon Schulte, Dawn Weber, and Mary Beth Welch.

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