

# **California Criminal Law**



# California Criminal Law

## Cases and Problems

FOURTH EDITION

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*To Nina, Gabriel, Naomi and Julia*  
SFS

*To Jetty, Mario and Jordan*  
SH

*To Paul, Jesse and Margaret*  
AF



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# Preface

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This fourth edition continues the approach of the first three editions, but with one significant change. Steve is excited to welcome Professors Scott Howe of the Fowler School of Law at Chapman University and Amy Flynn of the University of San Francisco School of Law as co-authors on this fourth edition. Scott and Amy bring both substantial teaching experience and a background as practicing criminal lawyers to the casebook. Users of the third edition will also note that this edition contains six new cases and a number of updated notes and problems, incorporating changes in California criminal law over the last five years.

This edition is the product of more than fifteen years of teaching with the previous editions. It reflects the philosophy that there are advantages to be gained by focusing on the law of a single jurisdiction because that focus permits the examination of the various criminal law doctrines in the larger context of the state's entire body of criminal law, allowing consideration of the relationship between doctrines—e.g., *mens rea* and insanity or “heat of passion” and self-defense—and the use of the same principle—e.g., the “reasonable person” test—for different purposes. Using a single state also facilitates the study of statutes, statutory interpretation and the interaction between the courts and the legislature. Perhaps most significantly, because criminal law tends to be relatively state-specific, the study of a single state's law—“real” law rather than general or imagined law—engages the students and leads to a more coherent understanding of the subject.

The book reflects our conviction that, while the Criminal Law course must expose students to the range of doctrines associated with substantive criminal law, the primary concern of the course, usually taught as a first year course, is to teach students how to read and understand cases and statutes and to construct legal arguments. Accordingly, the emphasis in the book is on cases and on problems. The cases are presented in relatively complete form, often including concurring and dissenting opinions, in order to give students examples of fully developed legal arguments. The 100 short problems presented in the book are all taken from real cases and ask the students to develop the appropriate legal arguments based on the cases they have read. Each chapter begins with an introduction, to give background to the cases and to outline the issues to be explored. Notes, which have been kept to a minimum, are generally used to extend the students' analysis by asking them consider theoretical or policy issues raised by the cases or alternative approaches contained in the Model Penal Code or other sources. Citations and footnotes have been eliminated from the judicial opinions without so specifying, and, where citations are included, they often are sim-

plified, with page cites omitted. Numbered footnotes are from the original materials; lettered footnotes are ours.

Finally, Steve wants to acknowledge the generation of students at U.S.F., who, years ago, encouraged him to publish his teaching materials and the more recent students whose response to the first three editions proved an invaluable guide to us in producing this fourth edition.

Steven F. Shatz  
Scott Howe  
Amy Flynn