

SECOND EDITION

**FEDERAL
CRIMINAL
TRIALS**

JAMES C. CISSELL

FEDERAL CRIMINAL TRIALS

Second Edition

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PREFACE TO SECOND EDITION

In keeping with the original purpose of *Federal Criminal Trials* and its predecessor, *Proving Federal Crimes*, this new edition may be used both as a starting point for research and as a speedy in-trial resource. This volume has been updated with simple, straight forward language, citations within the text and no footnotes.

This new edition covers constitutional protections, federal criminal procedure and rules of evidence, taking into account the pertinent statutory and rule changes and all pertinent Supreme Court decisions released through June, 1987. Some sections have been entirely rewritten. The chapter on preliminary proceedings is almost entirely new due to the passage of the Bail Reform Act of 1984.

The numbering style for the sections within chapters has been entirely reworked so that the user may more quickly find the pertinent section and references which he or she is interested in. Likewise, the index has been entirely revamped and greatly enlarged as a quick reference aid.

I would like to thank Dorothy M. Smith who typed the manuscript, in addition to her normal duties. I would also like to thank my associates, Tim Smith and Paul Komarek for the help which they provided along with accepting the burden that preparing such a manuscript causes to the office.

James C. Cissell

FOREWORD TO FIRST EDITION

Beginning in 1954, the United States Attorney's Office for the Southern District of New York has authored and revised *Proving Federal Crimes*. Since that time, the book has been recognized as an invaluable research tool and ready-reference manual for Federal prosecutors. Defense counsel and others involved in Federal criminal justice system were also quick to recognize its usefulness, and demand for the book has steadily grown.

In 1980, the task of revising this work was undertaken by the United States Attorney's Office for the Southern District of Ohio, under the leadership of then United States Attorney James Cissell. This 1980 edition substantially expanded the coverage of *Proving Federal Crimes* and continued and enhanced the traditions of excellence which had been established by previous editions.

In authoring *Federal Criminal Trials*, the first privately published update of *Proving Federal Crimes*, James Cissell has met the high standards he set for himself in the prior edition. The volume has been completely updated and four new chapters have been added: Jurisdiction and Venue, Preliminary Proceedings, Arraignment and Plea, and Post Trial Proceedings. These chapters deal with pre- and post-trial matters that have become increasingly important as the issues brought to trial and their procedural contexts have become increasingly complex. They are a welcome and needed addition.

As one who has been both a Federal prosecutor and a defense attorney, I know, first hand, the value of this work and the enthusiasm with which it will be received by bench and bar alike. As a co-author of one of the prior Southern District editions, I also know, first hand, the difficulty of producing this comprehensive work.

Federal Criminal Trials is a worthy successor to *Proving Federal Crimes*. It will continue to be an indispensable tool for practitioners of Federal criminal law.

Rudolph W. Giuliani
Associate Attorney General
U. S. Department of Justice

PREFACE TO FIRST EDITION

In the trial of a lawsuit there is often the immediate need for a quick review of a point of law or a citation to support or oppose an objection. Since 1954, *Proving Federal Crimes* has served this function in criminal trials for Department of Justice attorneys and such state prosecutors and private attorneys who were aware of this publication and who were able to secure it. First published and then maintained until 1976 by the staff of the United States Attorney for the Southern District of New York, it was written and revised by the staff of the United States Attorney for the Southern District of Ohio in 1980.

This revised and expanded edition under the title *Federal Criminal Trials* is the first to be published privately. As with previous editions, it is intended to be a starting point and an in-trial resource. Four chapters have been added. All of the existing chapters have been updated and some have been expanded and have had sections added to them. Citations have been added or removed throughout the book. Subtopics within chapters have been expanded for greater and quicker accessibility. The addition of the Bill of Rights, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence and the Table of Cases should greatly increase its use as a trial aid.

Thanks is due to those attorneys from the offices of the United States Attorney for the Southern District of New York and the United States Attorney for the Southern District of Ohio who worked on the previous editions. On a personal note, I would like to again thank my friends, Judge Bernard J. Gilday, for his encouragement and help when I was United States Attorney and requested his assistance with the revision done by the members of my staff and the assistance of Assistant U. S. Attorney, Bob Behlen, which was far beyond his normal duties.

Considerable thanks is also due to Betty Harris who bore the burden of typing and proofreading this manuscript in addition to her normal duties. Finally, I would like to thank my law partners, Howard Gould, Dave Reichert, Steve Strauss, Tom Gould, and Mike Reed for bearing up to the disruption this book caused to the office and to my time.

James Cissell

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