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## Criminal Law

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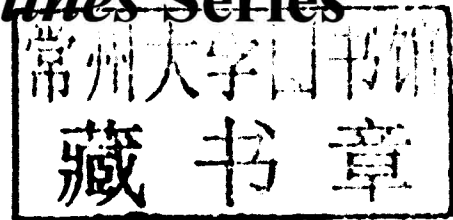
# CRIMINAL LAW

SEVENTH EDITION

**STEVEN L. EMANUEL**

Founder & Editor-in-Chief, Emanuel Law Outlines and  
Emanuel Bar Review  
Member, NY, CT, MD and VA bars

***The Emanuel Law Outlines Series***



**Wolters Kluwer**

Law & Business

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## **Dedication**

**For Meredith Rachel**

## Abbreviations Used in Text

B&P — Boyce and Perkins, *Cases and Materials on Criminal Law and Procedure* (Foundation Press, 8th Ed., 1999)

Dressler Csbk — Joshua Dressler, *Cases and Materials on Criminal Law* (Thomson / West, 5th Ed., 2009)

Dressler Hnbk — Joshua Dressler, *Understanding Criminal Law* (LexisNexis, 2006)

Fletcher — George Fletcher, *Rethinking Criminal Law* (Little Brown, 1978)

Johnson — Phillip Johnson, *Criminal Law, Cases, Materials and Text* (West Publishing, 5th Ed., 1995)

KS&S — Kadish, Schulhofer & Steiker, *Criminal Law and its Processes* (Aspen, 8th Ed., 2007)

L — Wayne LaFave, *Criminal Law* (West Publishing, Hornbook Series, 3d Ed., 2000)

LaFave — Wayne LaFave, *Modern Criminal Law, Cases, Comments and Questions* (West Publishing, 4th Ed., 2006)

M.P.C. — *Model Penal Code*, Proposed Official Draft (1962) and Tentative Drafts 1-13 (1953-1962) (American Law Institute) [Note: The Model Penal Code has not changed since 1962. However, the Official Commentaries to Parts I and II were revised in 1985 and 1980 respectively. All references in this outline to the Commentaries are to the revised Commentaries where applicable.]

P&B — Perkins & Boyce, *Criminal Law* (textbook) (Foundation Press, 3d Ed., 1982)

## Preface

Thank you for buying this book.

We think the special features that are part of this edition will help you a lot. These include:

- **Capsule Summary** — We’ve boiled the black-letter law of Criminal Law down to about 100 pages. We’ve designed this Capsule Summary to be read in the last week or so (maybe even the last night) before your exam. If you want to know more about a topic, cross-references in the Capsule point you to the pages in the main text that cover the topic more thoroughly.
- **Casebook Correlation Chart** — This chart shows you, for the five leading Criminal Law casebooks, where in the *Emanuel* any topic from your casebook is covered.
- **Exam Tips** — We’ve compiled these by reviewing dozens of actual past essay questions, and 100s of multiple-choice questions, asked in past law-school and bar exams. The *Exam Tips* are at the end of each chapter.
- **Quiz Yourself** questions — We’ve adapted these short-answer questions from the *Law in a Flash* flash-card deck on Criminal Law. (We’ve re-written most answers, to better mesh with the outline’s approach.) You’ll find these distributed within each chapter, usually at the end of a roman-numeraled section. Each “pod” of Quiz Yourself questions can easily be located by using the Table of Contents.

I intend for you to use this book both throughout the semester and for exam preparation. Here are some suggestions about how to use it:<sup>1</sup>

1. During the semester, use the book in preparing each night for the next day’s class. To do this, first read your casebook. Then, use the *Casebook Correlation Chart* at the front of the outline to get an idea of what part of the outline to read. Reading the outline will give you a sense of how the particular cases you’ve just read in your casebook fit into the overall structure of the subject. You may want to use a yellow highlighter to mark key portions of the *Emanuel*.
2. If you make your own outline for the course, use the *Emanuel* to give you a structure, and to supply black letter principles. You may want to rely especially on the *Capsule Summary* for this purpose. You are hereby authorized to copy small portions of the *Emanuel* into your own outline, provided that your outline will be used only by you or your study group, and provided that you are the owner of the *Emanuel*.
3. When you first start studying for exams, read the *Capsule Summary* to get an overview. This will probably take you all or part of two days.
4. Either during exam study or earlier in the semester, do some or all of the *Quiz Yourself* short-answer questions. When you do these questions: (1) record your short “answer” in the book after

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1. The suggestions below relate only to this book. I don’t talk here about taking or reviewing class notes, using hornbooks or other study aids, joining a study group, or anything else. This doesn’t mean I don’t think these other steps are important — it’s just that on this one page I’ve chosen to focus on how I think you can use this outline.

the question, but also: (2) try to write out a “mini essay” on a separate piece of paper. Remember that the only way to get good at writing essays is to write essays.

5. Some time in the week before your exam, do the 26 *Multiple Choice* questions near the back of the book. Unlike the *Quiz Yourself* questions, these are not marked by chapter or subject matter, so they’ll be a better test of whether you can recognize the issues being tested.
6. A couple of days before the exam, review the *Exam Tips* that appear at the end of each chapter. You may want to combine this step with steps (4) and/or (5), so that you use the *Tips* to help you spot the issues in the questions. You’ll also probably want to follow up from many of the *Tips* to the main outline’s discussion of the topic.
7. Some time during the week or so before the exam, do some or all of the full-scale essay exams at the back of the book. Write out a full essay answer under exam-like conditions (e.g., closed-book if your exam will be closed book.) If you can, exchange papers with a classmate and critique each other’s answer.
8. The night before the exam: (1) do some *Quiz Yourself* questions, just to get your writing juices flowing; and (2) re-read the various *Exam Tips* sections (you should be able to do this in 1-2 hours).

Good luck in your Criminal Law course. If you’d like any other publication from Aspen, you can find it at your bookstore or at **www.AspenLaw.com**.

Steve Emanuel

Larchmont NY

August 2010



# CASEBOOK CORRELATION CHART

**Note:** General sections of the outline are omitted from this chart. NC = not directly covered by this casebook. If you are using a more recent edition of one of the casebooks listed below, please email [legaledu@wolterskluwer.com](mailto:legaledu@wolterskluwer.com), and we'll send you an updated Correlation Chart.

| Emanuel's Criminal Law Outline<br>(by chapter and section heading) | Kadish,<br>Schulhoffer &<br>Steiker<br><b>Criminal Law<br/>and Its<br/>Processes</b><br>(8th Ed. 2007) | Boyce, Dripps &<br>Perkins<br><b>Criminal Law<br/>and Procedure:<br/>Cases and<br/>Materials</b><br>(10th Ed. 2007) | LaFare<br><b>Modern<br/>Criminal Law:<br/>Cases,<br/>Comments &amp;<br/>Questions</b><br>(4th Ed. 2006) | Dressler<br><b>Cases and<br/>Materials on<br/>Criminal Law</b><br>(5th Ed. 2009) | Kaplan,<br>Weisberg &<br>Binder<br><b>Criminal Law:<br/>Cases and<br/>Materials</b><br>(6th Ed. 2008) |
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| <b>Emanuel's Criminal Law Outline<br/>(by chapter and section heading)</b> | <b>Kadish,<br/>Schulhoffer &amp;<br/>Steiker<br/>Criminal Law<br/>and Its<br/>Processes<br/>(8th Ed. 2007)</b> | <b>Boyce, Dripps &amp;<br/>Perkins<br/>Criminal Law<br/>and Procedure:<br/>Cases and<br/>Materials<br/>(10th Ed. 2007)</b> | <b>LaFare<br/>Modern<br/>Criminal Law:<br/>Cases,<br/>Comments &amp;<br/>Questions<br/>(4th Ed. 2006)</b> | <b>Dressler<br/>Cases and<br/>Materials on<br/>Criminal Law<br/>(5th Ed. 2009)</b> | <b>Kaplan,<br/>Weisberg &amp;<br/>Binder<br/>Criminal Law:<br/>Cases and<br/>Materials<br/>(6th Ed. 2008)</b> |
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| <b>Emanuel's Criminal Law Outline<br/>(by chapter and section heading)</b> | <b>Kadish,<br/>Schulhoffer &amp;<br/>Steiker<br/>Criminal Law<br/>and Its<br/>Processes<br/>(8th Ed. 2007)</b> | <b>Boyce, Dripps &amp;<br/>Perkins<br/>Criminal Law<br/>and Procedure:<br/>Cases and<br/>Materials<br/>(10th Ed. 2007)</b> | <b>LaFare<br/>Modern<br/>Criminal Law:<br/>Cases,<br/>Comments &amp;<br/>Questions<br/>(4th Ed. 2006)</b> | <b>Dressler<br/>Cases and<br/>Materials on<br/>Criminal Law<br/>(5th Ed. 2009)</b> | <b>Kaplan,<br/>Weisberg &amp;<br/>Binder<br/>Criminal Law:<br/>Cases and<br/>Materials<br/>(6th Ed. 2008)</b> |
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## CASEBOOK CORRELATION CHART (continued)

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## Chapter 1

### SOME BASIC ISSUES IN CRIMINAL LAW

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### **ACTUS REUS AND MENS REA**

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## Chapter 3

**CAUSATION**

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