

C O N C I S E  
H O R N B O O K S



PRINCIPLES OF  
**Criminal  
Law**

SECOND EDITION  
WAYNE R. LAFAVE



**WEST®**

# PRINCIPLES OF CRIMINAL LAW

**Second Edition**

By

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**(Tikkul moa tae-san.)**

*~ Korean proverb*

## Preface

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This text may seem in one respect to be an unlikely product for a law professor, as it has no footnotes—not a single one! The absence of footnotes in this work reflects the fact that it is primarily intended not as a research tool, but rather as a study aid for use by law students during their enrollment in the course on criminal law. By excluding any documentation via footnotes of the various points considered and discussed herein, I have been able to use virtually all of the space in this conveniently-sized paperback volume for textual elaboration of the subjects covered.

While criminal law casebooks currently in use vary considerably in their approach and coverage, I have selected for inclusion in this volume the subject matter that is most commonly included in all basic criminal law courses. What this means, for one thing, is that a relatively small part of this work is devoted to discussion of the definition of particular crimes. Today, most criminal law courses consider in depth some or all of only three offense areas—homicide, rape, and theft—on the theory that they are particularly suited to achieving several of the objectives of a law school course in criminal law. And thus only these three offense categories are extensively discussed herein.

As is true of criminal law courses generally, this volume is devoted primarily to what is usually referred to as the “general part” of the criminal law. And thus the emphasis herein is upon the sources and limitations (including constitutional limitations) of the substantive criminal law, as well as upon general principles concerning mental state, acts and their consequences, defenses to crime, inchoate criminality (solicitation, attempts, conspiracy), and liability for the conduct of others. I have given greater attention to those particular topics that, based upon my own experience in teaching a course in criminal law for a good many years, I have found are most troubling to beginning law students. While this book is about substantive criminal law rather than criminal procedure, some procedural aspects essential to an understanding of the significance of certain criminal law doctrines are considered herein.

Because of the important part that the Model Penal Code has played in the revision and codification of substantive criminal law in recent times, Code sections are often given specific mention in this text; the location of references to a particular section may be

found in the table of code sections. When appellate cases are mentioned in the text, they are referred to by name and date only; they are cited fully only in the table of cases. Notwithstanding the lack of footnote references, it must be emphasized that language herein within quotation marks or block indented is that of others who can be readily identified by the interested student (see below).

How does a law professor manage to write a book without footnotes? Easy, first write a much longer work *with* footnotes, and then revise that work down by making many revisions in the text *and* by deleting all the footnotes. Yes, this book is the offspring of another work, published in 2003 and updated annually since, namely, the second edition of a multi-volume treatise for lawyers, judges and researchers called *Substantive Criminal Law* (itself the outgrowth of another work initially published back in 1972). I mention this here so that the student who does want to explore particular topics in the present book in greater depth, especially by finding illustrative cases, applicable statutes, and useful secondary authorities, will have an easy way of doing so. In Westlaw, just go to database SUBCRL and examine the comparable chapter or section, as indicated in the *Table of Cross-References* herein.

WAYNE R. LAFAVE

December 2009

## Table of Cross-References

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The author of this Book, *Principles of Criminal Law*, is also the author of a three-volume treatise, *Substantive Criminal Law* (2d ed. 2003, with annual updates), available in most law libraries and readily accessible on Westlaw in database SUBCRL. The subjects discussed in this Book are dealt with in greater detail in the Treatise. In addition, while the citation of supporting authority in this Book is extremely limited, citations to appellate cases, legislation and court rules, as well as articles and other secondary authorities, are available in the Treatise. Users of this Book desiring either additional discussion of a particular subject or supporting authority regarding a specific topic will thus find it useful to consult the Treatise. To facilitate such consultation, use this table of cross-references, which indicates for each section of this Book what section in the Treatise deals with the same subject matter. (Even when the section numbers are different, the subsections will usually be identical in both works.)

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2.1	2.1	7.4	8.4	12.5	13.5		
2.2	2.2			12.6	13.6		
2.3	2.3	8.1	9.1				
2.4	2.4	8.2	9.2	13.1	14.1		
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CRIMINAL LAW**

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