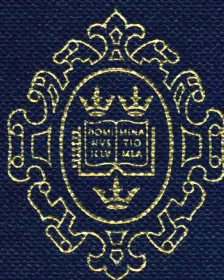


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CRIMINAL
PRACTICE

2015



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2015

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Preface

I am delighted to write the preface for this 25th edition of *Blackstone's Criminal Practice*. Since its inception in 1991 it has been the only practitioner text to offer a comprehensive manual meeting the criminal practitioner's need in every level of court.

In collaboration with Alistair McQueen and others at *Blackstone Press*, the Founding Editor Peter Murphy launched *Blackstone's Criminal Practice* to meet "the clear and widely recognized need for a new work . . . in a single volume, giving an up to date service, [with] writing of uncompromising and rigorous scholarly quality, [and] meticulous attention to detail [with] emphasis on the practice of the courts, [designed] to promote maximum utility and minimum confusion". It has achieved its aims. It is now trusted and regularly cited in the Supreme Court, the Court of Appeal, and the Divisional Court. It is found in every Crown Court and magistrates' court in the country. It has become the preferred text of many judges, advocates, and legal professionals attracted by its clear readable style and authoritative content.

There have of course been many changes over the last 25 years as the book has evolved, including changes to the editorial team. For the first 16 years, under Peter Murphy's editorship the book gained the respect of practitioners and the judiciary alike. In 2008 Sir Anthony Hooper and I began a joint editorship reflecting the core strengths underpinning the entire book: a unique blend of academic scholarship and comment with practical experience and insight. This year, Sir Anthony has stepped down following his retirement from the Court of Appeal in 2013. His decades of experience and expertise as an advocate, a judge, and as deputy chairman of Criminal Procedure Rule Committee have benefitted the book enormously. I would like to record my huge gratitude to him for the years of support and guidance on all aspects of the editorial work and beyond. I am delighted that in 2016 I will be joined by a new co-Editor in Chief: Mr David Perry QC, who is renowned as one of the greatest criminal advocates of our time. He will bring with him unrivalled experience from the criminal courts. Changes have also occurred to the membership of the Advisory Editorial Board. It has, throughout, been formed of a high calibre team bringing a wealth of experience from practice and the bench. The members offer guidance on the contents and structure of the book.

The author team has evolved too. Many of the team of original authors remain from 1991, and their commitment and dedication along with their vast experience has been vital to the success of the book. The team has also expanded as more specialists have been brought in to deal with individual subjects, and we have been successful in attracting many of the leading practitioners in the fields as contributors. This has ensured that *Blackstone's* users can retain their confidence that the text is focussed on meeting the needs of those in practice by providing authoritative treatment presented in an accessible manner. The entire team of authors deserves the highest praise for continuing to produce such high quality work. We will continue to work with leading practitioners to ensure that we have expert coverage of particular specialisms. Congratulations are also due to the editorial coordinator, Laurence Eastham, who has been with *Blackstone's* from the outset. It is difficult to overestimate the significance of the impact he has had in ensuring the continued quality of the book. His unique experience and intimate knowledge of the entire work has proved invaluable year after year. He continues to provide great inspiration to all those involved in each edition.

The original publishers—Blackstone Press—was acquired in 2001 but the commitment of Oxford University Press has been unstinting since taking over the work. Although the team working on the book has changed many times, the dedication of everyone at OUP to *Blackstone's Criminal Practice* and its objectives has been unflinching.

Changes in the presentation of the work have also occurred to meet the needs of our readers. Along with the main work, which is now available as an app, an e-book, and in print, there

are three cumulative supplements. Although never envisaged at the time of our launch, the introduction of supplements has proved a huge success: access to these essential documents in a separate convenient volume is immensely popular with judges and practitioners alike. These incorporate the entire text of the Criminal Procedure Rules, the Crown Court Practice Directions, and the relevant sentencing guidelines. There are also online monthly updates and the popular Quarterly Update offering topical reviews. In short, *Blackstone's* offers a complete coverage of criminal practice materials in a range of formats to suit all readers' preferences.

Of course, some things never change: *Blackstone's Criminal Practice* continues to provide an affordable, high quality, comprehensive manual of everything the criminal practitioner will need in any level of court.

This edition

As ever, the work includes all the major developments in legislation and case law over the last 12 months. Once again we have been fortunate in not having a substantial criminal justice Act to incorporate, although there are numerous changes throughout the text resulting from the Anti-social Behaviour, Crime and Policing Act 2014; the Offender Rehabilitation Act 2014, and the Data Retention and Investigatory Powers Act 2014. We also analyse the many relevant statutory instruments, including those bringing into force provisions in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the Crime and Courts Act 2013, the Prevention of Social Housing Fraud Act 2013, Protection of Freedoms Act 2012, as well as the usual raft of orders amending the Misuse of Drugs Act 1971.

This year also saw revisions of the importance PACE Codes of Practice Codes A, B, C, E, F, and H, all of which are included in the main volume and analysed in Part D. The protocols on disclosure introduced in December 2013 and the revised Attorney General's disclosure guidelines are also included. The supplement to this edition also reproduces the latest Criminal Procedure Rules, the Criminal Practice Directions (with its latest revisions effective from 6 October) and sentencing guidelines, including that on Fraud, bribery and money laundering. Cumulative supplements will be produced to include developments in the law throughout 2014–15.

As one would expect, this edition also includes analysis by the expert team of contributors of all the important decisions from the appellate courts, including: *Robinson-Pierre* on causation and dangerous dogs; *Grant* on transferred malice; *Oye* and *Thompson and Press* on insanity, automatism and defences; *Montague* and *Bristow* on joint enterprise; *Dang* on conspiracy; *Pace* on attempts and *mens rea*; *Bunch, Brown* and *Golds* on diminished responsibility; *Workman* on loss of control; *R (Nicklinson) v Ministry of Justice* on assisting suicide; *Golding* on transmission of infection; a raft of decisions on sentencing in sexual cases including *Hall, Master, Wilson, Knight, Livesey, Sakalauskas* on possession or control of articles for use in fraud; *Gul, Miranda* and *Beghal* on terrorism; *Monteiro* on sentencing for knife possession; *Richardson v DPP* on aggravated trespass; *King, Bunyan, Mitchell* and *Shoyeju* on misconduct in public office; *Beeres v CPS West Midlands* on intoxication and interviews; *R (TD) v Metropolitan Police Commissioner* on biometric data retention; the many cases on the execution of search warrants including *Cheema v Nottingham and Newark Magistrates Court*, *R (Lees) v Solihull Magistrates' Court*, and *R (Chief Constable of South Yorkshire Police) v Sheffield Crown Court*; *Crawley* on abuse of process and legal representation; *Guardian News and Media Ltd v AB CD* on secret trials and *JC* on reporting restrictions of youth trials; *White* on defective indictments; *BH (A Child) v Llandudno Youth Court* on committal of youths for trial; *Achogbuo* on loss of time and frivolous appeals; *Bucnys v Ministry of Justice, Lithuania* on extradition; *Dyer* on sentencing council guidelines; *Vinter v UK* and *McLaughlin* on whole life tariffs; *Burinskas* on dangerous offenders under LASPO; *Ahmad* and *Fields, King* and *Mackie* on confiscation; *Khan* on exclusion of covert evidence; *Gjoni* on sexual history evidence; *Bowman Matthews* and *Lewis* on bad character; *Minchin, Harvey* and *Taylor* on hearsay; *Ogden* on DNA.

The team at Oxford University Press (Andy Redman, Fiona Sinclair, Briony Ryles, Sarah Randall, and Amy Jones) have worked efficiently and tirelessly as ever. I am grateful to them for ensuring that this edition maintains the excellence for which *Blackstone's* has become renowned.

Blackstone's welcomes constructive comments and suggestions from readers. These assist us in providing a publication that meets the needs of the users. Please continue to offer your feedback via the web site at <<http://www.oup.com/blackstones/criminal>>. Alternatively, you can send us your comments by email at blackstonescriminal@oup.com.

David Ormerod is the Criminal Law Commissioner for England and Wales, but nothing in this work should be taken as representing the views of the Law Commission unless expressly stated to do so.

We have endeavoured to state the law as at 1 August 2014.

Professor David Ormerod QC

Acknowledgements

Particular thanks are due to the editorial coordinator, Laurence Eastham. Thanks are also due to Moira Greenhalgh for the preparation of the original index and to Kim Harris for updating it for this edition, Nicola Freshwater for the copyediting, Margaret Humbert for the proofreading, and Deborah Harris for the tables.

The Code for Crown Prosecutors in appendix 3 is reproduced with the kind permission of the Crown Prosecution Service.

The publishers are grateful to readers for the suggestions (and corrections) which they provide throughout the year. They would like to invite subscribers to email (blackstonescriminal@oup.com) with any feedback or comments so that the service can continue to be developed and improved.

Abbreviations

The following abbreviations have been used in this edition:

ABCPA 2014	Anti-social Behaviour, Crime and Policing Act 2014
A-G	Attorney-General
A-G's Ref	Attorney-General's Reference
AJA 1999	Access to Justice Act 1999
ASBA 2003	Anti-social Behaviour Act 2003
ASBO	anti-social behaviour order
A-tCSA 2001	Anti-terrorism, Crime and Security Act 2001
BA 1976	Bail Act 1976
CAA 1981	Criminal Attempts Act 1981
CAJA 2009	Coroners and Justice Act 2009
CCA 2013	Crime and Courts Act 2013
CCRC	Criminal Cases Review Commission
CDA 1998	Crime and Disorder Act 1998
CJA	Criminal Justice Act (dates vary)
CJCSA 2000	Criminal Justice and Court Services Act 2000
CJEU	Court of Justice of the European Union
CJIA 2008	Criminal Justice and Immigration Act 2008
CJPA 2001	Criminal Justice and Police Act 2001
CJPO 1994	Criminal Justice and Public Order Act 1994
CLA	Criminal Law Act (dates vary)
CMCHA 2007	Corporate Manslaughter and Corporate Homicide Act 2007
CPD	Criminal Practice Directions
CPIA 1996	Criminal Procedure and Investigations Act 1996
CPS	Crown Prosecution Service
CrimPR	Criminal Procedure Rules 2014
C(S)A 1997	Crime (Sentences) Act 1997
CSO	community support officer
C-TA 2008	Counter-Terrorism Act 2008
CYPA	Children and Young Persons Act (dates vary)
DPP	Director of Public Prosecutions
DTTO	drug treatment and testing order
DVCVA 2004	Domestic Violence, Crime and Victims Act 2004
EAW	European Arrest Warrant
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FA 1968	Firearms Act 1968
F(A)A	Firearms (Amendment) Act (dates vary)
FCA	Financial Conduct Authority
FSMA 2000	Financial Services and Markets Act 2000
HRA 1998	Human Rights Act 1998
IPP	imprisonment for public protection
LASPO 2012	Legal Aid, Sentencing and Punishment of Offenders Act 2012
MCA 1980	Magistrates' Courts Act 1980
MDA 1971	Misuse of Drugs Act 1971
NCA	National Crime Agency
OAPA 1861	Offences Against the Person Act 1861
ORA	Offender Rehabilitation Act

Abbreviations

PACA 2009	Policing and Crime Act 2009
PACE 1984	Police and Criminal Evidence Act 1984
PCC(S)A 2000	Powers of Criminal Courts (Sentencing) Act 2000
POA	Public Order Act (dates vary)
POCA 2002	Proceeds of Crime Act 2002
PRSRA 2011	Police Reform and Social Responsibility Act 2011
RCPO	Revenue and Customs Prosecutions Office
RIPA 2000	Regulation of Investigatory Powers Act 2000
RTA	Road Traffic Act (dates vary)
RTOA 1988	Road Traffic Offenders Act 1988
RTRA	Road Traffic Regulation Act (dates vary)
SCA 2007	Serious Crime Act 2007
SCPO	serious crime prevention order
SFO	Serious Fraud Office
SGC	Sentencing Guidelines Council
SMD	special measures direction
SOA	Sexual Offences Act (dates vary)
SOCPA 2005	Serious Organised Crime and Police Act 2005
SOPO	sexual offences prevention order
TA 2000	Terrorism Act 2000
TA 2006	Terrorism Act 2006
UNCLOS	United Nations Convention on the Law of the Sea
VCRA 2006	Violent Crime Reduction Act 2006
VOO	violent offender order
YJCEA 1999	Youth Justice and Criminal Evidence Act 1999
YOT	youth offending team
YRO	youth rehabilitation order

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