

PREFACE

In April of 2011, Associate Justice of the Appeals Court Kent B. Smith asked me to co-author with him and then maintain a fourth edition of these volumes. I felt honored to have him place his trust in me, as these volumes have been a respected authority on Massachusetts criminal practice and procedure for over thirty years. I first encountered them in law school and, then, in practice as a criminal defense attorney, they were invaluable to me. I continued to rely on them as an assistant district attorney and as an associate justice on the Massachusetts Appeals Court. I was also happy that I would have a chance to work closely with Justice Smith on “The Book” because I could ask for no better mentor or friend.

Justice Smith passed away on October 31, 2011, before we were able to begin the new edition. Preparing the fourth edition without him has been a challenging endeavor. I hope that Justice Smith would have approved of the changes, or at least, not minded them too much. In this edition the chapters on Arrests, Terry Stops, Searches and Seizures, and Interrogations, among others, have been substantially reorganized. There is a separate chapter on searches of automobiles. There are new chapters on the Sex Offender Registry Board, Probation Violation Proceedings, and Abuse Prevention Orders. The chapter on Interstate Renditions has been returned to the volumes at the request of certain trial judges.

I would like to thank the many people who have assisted me in the preparation of this edition, giving freely of their personal time to help insure the accuracy and quality of these volumes. I could not have accomplished this without Cheryl Miranda who kept the volumes organized and assisted with editing. Justice Smith’s former law clerk Brianne Cate brought back the chapter on Interstate Renditions. Staff attorney Shaun McLean, who misses Justice Smith every day in Springfield, helped me with the sections on immigration consequences, guilty pleas, and the Hinton Drug Laboratory. Staff Attorney, and former law clerk to Justice Smith, Lynn S. Muster, assisted with the chapter appendix for Rule 25. Assistant Clerk of the Appeals Court Paul Tuttle provided expertise from his days as a hearing officer at the Sex Offender Registry Board, and the chapter on the practice and procedure before the board is the result. In addition, he made sure that I got the chapter on appeals correct. Associate Justices William Meade and Sydney Hanlon provided valuable insight on the chapters on Interstate Renditions and Abuse Prevention

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Orders, respectively. Law student and legal intern John J. Burke assisted with the research and preparation of the new chapter on Probation Violation Proceedings. Legal interns Peter Brocker, Nicole Clarke, Daniel Goodrich, and Shannon McCarthy worked very hard to produce the appendices of cases in chapters 3, 4, and 5. They were assisted by Law Clerks Taylor Neff and Alicia Parmentier. I would also like to thank the editors at Thomson Reuters and, in particular, Principle Attorney Editor Frank Wozniak, for his guidance.

I could not have completed this edition without the peace of knowing that my work at the Appeals Court was well supported “behind the scenes” by Administrative Assistant Gina Demetrio and my long-term Law Clerk, Richard Pline.

Finally, I would like to thank my spouse Sharon Levesque and my son Austin J. Cyphersmith, who provided love, encouragement, and understanding throughout this project.

Elsbeth B. Cypher

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