

Table of Contents

CHAPTER 1. OVERVIEW OF PENAL LAW

- § 1:1 History of penal law
- § 1:2 Structure
- § 1:3 Definitions
- § 1:4 Statutory construction and interpretation

CHAPTER 2. CONSPIRACY

- § 2:1 Introduction
- § 2:2 Degrees
- § 2:3 —Conspiracy in second degree
- § 2:4 Elements
- § 2:5 —Intent to commit crime
- § 2:6 —Agreement
- § 2:7 Statute of limitations
- § 2:8 Necessity of overt act
- § 2:9 Examples of conspiracy
- § 2:10 Acts not constituting conspiracy
- § 2:11 Circumstantial evidence to prove conspiracy
- § 2:12 Lesser included offense
- § 2:13 Jurisdiction
- § 2:14 Accomplice liability not applicable for conspired crime
- § 2:15 Co-conspirator's testimony needs corroboration
- § 2:16 —Infancy defense
- § 2:17 —Hearsay statements of co-conspirators
- § 2:18 —Confrontation clause
- § 2:19 Statements of co-conspirator to establish probable cause for arrest
- § 2:20 Defense of renunciation
- § 2:21 Defense of double jeopardy
- § 2:22 Not defense—Incapacity of one co-conspirator
- § 2:23 Not defense—Postponement
- § 2:24 Not a defense—Impossibility
- § 2:25 Relationship to conspiracy of enterprise corruption
- § 2:26 Relationship to federal and other states' crimes
- § 2:27 Accusatory instrument
- § 2:28 Proof deviating from indictment
- § 2:29 Apparently inconsistent verdicts
- § 2:30 Joinder and severance
- § 2:31 Joint trial with co-conspirator
- § 2:32 Sentencing
- § 2:33 Sex Offender Registration Act
- § 2:34 Drug Law Reform Act
- § 2:35 Uncharged crimes
- § 2:36 Prison disciplinary rule

- § 2:37 Missing witness charge
- § 2:38 Multiple conspiracies
- § 2:39 Statute of limitations

CHAPTER 3. ATTEMPT

- § 3:1 Introduction
- § 3:2 Elements
- § 3:3 Classifications of attempt
- § 3:4 Intent
 - Homicide charges
 - Crimes involving physical injury
 - Crimes not requiring intent
 - Plea bargain exception for crimes without intent
- § 3:9 —Crimes presuming mental state
- § 3:10 Conduct tending to effect commission of crime
- § 3:11 Impossibility is not defense
- § 3:12 Defense—Renunciation
- § 3:13 Inchoate crimes
- § 3:14 Kidnapping
- § 3:15 Criminal possession of weapon
- § 3:16 Burglary
- § 3:17 Robbery and larceny
- § 3:18 Prostitution and rape
- § 3:19 Assault and gang assault
- § 3:20 Other cognizable attempt crimes
- § 3:21 Insufficient evidence
- § 3:22 Lesser included offenses
- § 3:23 Examples
- § 3:24 Sandoval
- § 3:25 Inconsistent verdict
- § 3:26 Civil cause of action
- § 3:27 Uncharged Crimes
- § 3:28 Sentencing

CHAPTER 4. ASSAULT

- § 4:1 Introduction
- § 4:2 Related statutes
- § 4:3 Assault 3rd degree
 - Physical injury
 - Intent to cause physical injury
 - Reckless
 - Criminal negligence
- § 4:8 Assault 2nd degree
 - Physical injury to child caused by firearm
- § 4:10 —Causation
- § 4:11 —Intent
- § 4:12 —Reckless

TABLE OF CONTENTS

- § 4:13 —Assault within correctional facility
- § 4:14 —“Serious physical injury” and “physical injury”
- § 4:15 —Assault on police officer or other listed authorized person
- § 4:16 ——Lawful duty
- § 4:17 —Assault on police officer—Justification defense
- § 4:18 —Justification defense
- § 4:19 —Assault on person 65 years or older
- § 4:20 —Alcohol or drug-based assault
- § 4:21 —Or another participant
- § 4:22 Sexually motivated felony
- § 4:23 Assault as a hate crime
- § 4:24 Assault 1st degree
- § 4:25 —Intentional
- § 4:26 —Evidence
- § 4:27 —Depraved indifference
- § 4:28 —Lesser included offenses
- § 4:29 —Serious physical injury
- § 4:30 Protracted Impairment
- § 4:31 Assault 1st degree—Intoxication
- § 4:32 —Miscellaneous
- § 4:33 —Dangerous Instrument
- § 4:34 Assault on a retail worker
- § 4:35 Strangulation and related crimes
- § 4:36 Menacing
- § 4:37 Sufficiency of proof
- § 4:38 Dangerous instrument—Examples
- § 4:39 Evidence
 - § 4:40 —*Molineux*
 - § 4:41 —Sandoval
- § 4:42 —Motive
- § 4:43 Attempt
- § 4:44 Lesser included offenses
- § 4:45 Gang assault
- § 4:46 Stalking
- § 4:47 Intent
- § 4:48 Course of conduct
- § 4:49 Hate crime
- § 4:50 Accomplice liability
- § 4:51 Sentencing
- § 4:52 —Youthful offender
- § 4:53 Assault upon child
- § 4:54 Assault: Identity of victim
- § 4:55 Reckless endangerment 1st degree
- § 4:56 Reckless endangerment 2nd degree
- § 4:57 Assault and sports
- § 4:58 Assault on a police officer
- § 4:59 Aggravated assault on police officer

- § 4:60 Medical records
- § 4:61 Justification defense
- § 4:62 In furtherance of felony
- § 4:63 SORA
- § 4:64 Sandoval
- § 4:65 Multiplicitous
- § 4:66 Restitution
- § 4:67 Identification of Defendant
- § 4:68 Orders of protection

CHAPTER 5. HOMICIDE, ABORTION, AND RELATED OFFENSES

I. ELEMENTS OF CRIME

- § 5:1 Introduction
- § 5:2 Related law
- § 5:3 Murder 1st degree/Aggravated Murder
- § 5:4 Murder 1st degree—Murder for Hire
 - Torture
 - Police officer victim
- § 5:7 Murder 2nd degree
- § 5:8 —Intentional murder
- § 5:9 Intent impacted by drugs and/or alcohol
- § 5:10 Murder 2nd degree—Intentional murder—Defense to intentional murder:
 - Extreme emotional disturbance
 - Defense to intentional murder: Aiding suicide
 - Depraved indifference to human life
 - Intoxicated Drivers and Depraved Indifference
 - Murder 2nd degree—Depraved indifference to human life—Intentional and depraved indifference convictions barred
 - Felony-murder
 - Manslaughter 1st
 - Manslaughter 2nd
 - Criminally negligent homicide
 - Automobile accidents
 - Vehicular manslaughter
 - Aggravated vehicular homicide
 - Aggravated criminally negligent homicide
 - Abortion, self-abortion and issuing abortional articles
 - Justification/self defense
 - Justification not established
 - Justification/Self-Defense—Duty to Retreat
 - Defense—Mental illness
 - Attempt
 - Causation: Intervening cause
 - Medical negligence
 - Accomplice liability

TABLE OF CONTENTS

- § 5:32 Accomplice liability not proven
- § 5:33 Death of child
- § 5:34 —Failure to act
- § 5:35 —Neonaticide
- § 5:36 —Shaken baby syndrome
- § 5:37 —Uncharged crimes
- § 5:38 Identity

II. PROCEDURAL AND EVIDENCE CONSIDERATIONS

- § 5:39 Procedural effects: Statute of limitations, speedy trial, bail
- § 5:40 Dismissal in the interests of justice
- § 5:41 Exhumation of body
- § 5:42 Death certificate and testimony of “homicide”
- § 5:43 Photograph of deceased
- § 5:44 Motive
- § 5:45 Consciousness of guilt
- § 5:46 Circumstantial evidence
- § 5:47 Uncharged crimes
- § 5:48 Lesser included offenses
- § 5:49 Duty to act
- § 5:50 Collateral consequences
- § 5:51 —Death of spouse
- § 5:52 Sentencing
- § 5:53 Lawful consecutive sentences
- § 5:54 Harsh and excessive
- § 5:55 Sentencing—Juvenile Offender
- § 5:56 —Hate Crime
- § 5:57 —Domestic Violence Survivors Justice Act
- § 5:58 Civil and criminal negligence compared
- § 5:59 Scientific evidence
- § 5:60 Youthful offender
- § 5:61 Statute of limitations
- § 5:62 Double jeopardy
- § 5:63 Physician-patient privilege
- § 5:64 Autopsy report
- § 5:65 Consolidation
- § 5:66 Joinder and Severance

CHAPTER 6. SEX OFFENSES

- § 6:1 Introduction
- § 6:2 Overview
- § 6:3 The Harvey Weinstein Trial

I. ELEMENTS OF CRIME

- § 6:4 Rape 1st degree
- § 6:5 Rape 2nd degree

- § 6:6 Rape 3rd degree
- § 6:7 Criminal sexual act 1st degree
- § 6:8 Criminal sexual act 2nd degree
- § 6:9 Criminal sexual act 3rd degree
- § 6:10 Sexual abuse 1st degree
- § 6:11 —Element: Sexual contact
- § 6:12 —Element: Sexual gratification
- § 6:13 Sexual abuse 2nd degree
- § 6:14 Sexual abuse 3rd degree
- § 6:15 Forcible compulsion
- § 6:16 Forcible compulsion: Victim's perception governs
- § 6:17 Intent as element
- § 6:18 Age of victim
- § 6:19 Inability to consent
- § 6:20 —Physically helpless victim
- § 6:21 —Mentally disabled
- § 6:22 Lack of knowledge of inability to consent
- § 6:23 Aggravated sexual abuse 1st and 2nd degrees
- § 6:24 Sexual misconduct: Compared with rape and criminal sexual act 1st
- § 6:25 —Applicability to minors
- § 6:26 Sex with dead person or with animal
- § 6:27 Course of sexual conduct against child 1st and 2nd degrees
- § 6:28 Forcible touching
- § 6:29 Predatory sexual assault against child
- § 6:30 Predatory sexual assault
- § 6:31 Incest
- § 6:32 Possession of sexual performance by child
- § 6:33 Facilitating sex offense with controlled substance
- § 6:34 Sexually motivated felony
- § 6:35 Persistent Sexual Abuse
- § 6:36 Attempt offenses

II. PROOF AND TRIAL OF CRIME

- § 6:37 Accusatory Instrument
- § 6:38 Grand jury presentation
- § 6:39 —Videotaped examination
- § 6:40 Corroboration
- § 6:41 —Required with mental defect/mental incapacity
- § 6:42 —Required with accomplice testimony
- § 6:43 —Required with defendant's statement
- § 6:44 —Required with unsworn testimony
- § 6:45 —Not required in rape prosecutions
- § 6:46 —Not required with underage testimony
- § 6:47 —“Cross corroboration”
- § 6:48 “Cross corroboration”—Jury charge required
- § 6:49 Duplicitous charges in indictment
- § 6:50 Inclusory concurrent counts

TABLE OF CONTENTS

- § 6:51 Merger
- § 6:52 Repugnant verdicts
- § 6:53 Lesser included charges
- § 6:54 Connecting crime charged with verdict
- § 6:55 Specifying date of occurrence
- § 6:56 Statute of limitations
- § 6:57 Severance and joinder of charges
- § 6:58 —Charges frequently joined
- § 6:59 Felony-murder charges
- § 6:60 Discovery

III. COMMON EVIDENTIARY ISSUES IN SEX CRIMES CASES

- § 6:61 Rape shield law
- § 6:62 —Five exceptions
- § 6:63 —Inapplicable to prior false accusations
- § 6:64 Clothing of victim
- § 6:65 Discovery of psychiatric history
- § 6:66 Rape crisis counselor records
- § 6:67 Victim's access to defendant's STD information
- § 6:68 Admissibility of medical records
- § 6:69 Evidence of venereal disease in child
- § 6:70 Rape kit
 - § 6:71 —Destruction of rape kit
- § 6:72 Expert evidence, generally
- § 6:73 Medical testimony
- § 6:74 Psychological testimony
- § 6:75 Social worker, nurse-practitioner, and child abuse expert testimony
- § 6:76 Rape trauma syndrome
- § 6:77 Child sexual abuse accommodation syndrome
- § 6:78 Traumatic bonding and coercive control
- § 6:79 DNA evidence
- § 6:80 Closure of courtroom
- § 6:81 Use of closed-circuit television
- § 6:82 —Standard for ordering televised testimony
- § 6:83 —Procedure
- § 6:84 Privacy issues
- § 6:85 —Exceptions
- § 6:86 “Prompt complaint” evidence
- § 6:87 —What constitutes promptness
- § 6:88 Absence of prompt complaint evidence
- § 6:89 Photographic evidence
- § 6:90 Polygraph results
- § 6:91 Credibility
- § 6:92 Evidence of uncharged crimes
- § 6:93 Proof of identity
- § 6:94 —Improper use
- § 6:95 —“Amorous design” rule

- § 6:96 Impeachment of defendant
- § 6:97 Character witness
- § 6:98 Child witnesses
- § 6:99 —Suggestive questioning of child

IV. COMMON DEFENSES

- § 6:100 Types of defenses
- § 6:101 —Alibi defense
- § 6:102 —Consent
- § 6:103 —Seduction defense
- § 6:104 —Crime never occurred
- § 6:105 Intoxication
- § 6:106 Mental disease or defect

V. SENTENCING

- § 6:107 Introduction
- § 6:108 Harsh and excessive sentencing
- § 6:109 Second child sexual assault sexual offender
- § 6:110 Domestic Violence Survivors Justice Act
- § 6:111 Illegally imposed sentence
- § 6:112 Predicate felon
- § 6:113 Collateral consequences
- § 6:114 Sex offender treatment
- § 6:115 Family Court proceeding
- § 6:116 Youthful offender adjudication
- § 6:117 Bail during pendency of appeal

VI. SEX OFFENDER REGISTRATION ACT

- § 6:118 Sex Offender Registration Act: Registration and notification of released offenders
- § 6:119 Sex Offender Registration Act
- § 6:120 Factors considered when determining SORA level: Use of a weapon, violence, or infliction of serious bodily injury
- § 6:121 Factors considered when determining SORA level: Sexual Contact With Victim
- § 6:122 Factors considered when determining SORA level: Number of Victims
- § 6:123 Factors considered when determining SORA level: Duration of Offense Contact With Victim
- § 6:124 Factors considered when determining SORA level: Age of Victim
- § 6:125 Factors considered when determining SORA level: Other Victim Characteristics (Victim suffered from mental defect or incapacity or from physical helplessness)
- § 6:126 Factors considered when determining SORA level: Relationship With Victim
- § 6:127 Factors considered when determining SORA level: Age at First Sex Crime
- § 6:128 Factors considered when determining SORA level: Number and Nature of Prior Crimes

TABLE OF CONTENTS

- § 6:129 Factors considered when determining SORA level: Recency of prior felony or sex crime
- § 6:130 Factors considered when determining SORA level: Drug or alcohol abuse
- § 6:131 Factors considered when determining SORA level: Acceptance of Responsibility
- § 6:132 Factors considered when determining SORA level: Conduct While Confined/Supervised
- § 6:133 Factors considered when determining SORA level: Supervision (upon release)
- § 6:134 Factors considered when determining SORA level: Living / Employment Situation (upon release)
- § 6:135 Factors considered when determining SORA level: Overrides
- § 6:136 Registration for foreign offenses
- § 6:137 Upward departure from presumptive risk level
- § 6:138 Downward departure from presumptive risk level
- § 6:139 Appealing a risk level
- § 6:140 Sex Offender Registration Act—Modification
- § 6:141 Sexual Assault Reform Act

CHAPTER 7. KIDNAPPING

- § 7:1 Introduction
- § 7:2 Degrees
- § 7:3 Abduct
- § 7:4 —Restrain
- § 7:5 ——Intentionally
- § 7:6 ——Parental/guardian defense
- § 7:7 ——Secreting in place not likely to be found
- § 7:8 ——Using or threatening deadly physical force
- § 7:9 Kidnapping first degree
- § 7:10 —Ransom
- § 7:11 —Restrain for 12 hour period
- § 7:12 ——Inflict physical injury
- § 7:13 ——Violate or abuse victim sexually
- § 7:14 ——Advance commission of felony
- § 7:15 —Death
- § 7:16 Merger doctrine
- § 7:17 —Procedure to raise issue
- § 7:18 Attempted kidnapping
- § 7:19 —Second degree
- § 7:20 —First degree
- § 7:21 Lesser included offenses
- § 7:22 Repugnant verdicts
- § 7:23 Defense—Renunciation
- § 7:24 Accomplice
- § 7:25 Sentencing
- § 7:26 Relationship to murder first degree
- § 7:27 Relationship to juvenile delinquency
- § 7:28 Jurisdiction

- § 7:29 Evidence of uncharged crimes
- § 7:30 Joinder
- § 7:31 Sandoval
- § 7:32 Kidnapping 2nd degree
- § 7:33 Interests of justice dismissed
- § 7:34 Sex Offender Registration Act
- § 7:35 Circumstantial evidence
- § 7:36 Unlawful imprisonment
- § 7:37 Defense—Kidnapping and justification

CHAPTER 8. BURGLARY AND TRESPASS

- § 8:1 Introduction (including trespass offenses)
- § 8:2 Related law
- § 8:3 Entering or remaining unlawfully
- § 8:4 Enters
- § 8:5 Remains unlawfully
- § 8:6 Knowingly
- § 8:7 Pleading “entering or remaining unlawfully”
- § 8:8 Building
- § 8:9 Fencing or enclosure
- § 8:10 Building—Dwelling
- § 8:11 Intent to commit crime
- § 8:12 Identity
- § 8:13 Burglary 1st degree
- § 8:14 Burglary 2nd degree
- § 8:15 Burglary 3rd degree
- § 8:16 Criminal trespass 1st degree
- § 8:17 Criminal trespass 2nd
- § 8:18 Criminal trespass 3rd
- § 8:19 Public housing project
- § 8:20 Criminal trespass 3rd—School facilities
- § 8:21 Simple trespass
- § 8:22 Sentencing
- § 8:23 Possession of burglar’s tools
- § 8:24 Unlawful possession of radio device
- § 8:25 Accomplice liability
- § 8:26 Burglarizing one’s own property; domestic violence
- § 8:27 Attempted burglary
- § 8:28 Evidence
- § 8:29 Sandoval
- § 8:30 Bail—Qualifying offense
- § 8:31 Lesser included offense
- § 8:32 Inclusory concurrent counts
- § 8:33 Relationship to Sex Offender Registration Act
- § 8:34 Stay away orders
- § 8:35 Orders of protection
- § 8:36 *Molineux*

TABLE OF CONTENTS

- § 8:37 Restitution
- § 8:38 Multiplicitous counts
- § 8:39 Repugnant verdicts
- § 8:40 Interests of justice
- § 8:41 Estranged relationships
- § 8:42 Merger
- § 8:43 Justification
- § 8:44 Adolescent offender
- § 8:45 Youthful offender

CHAPTER 9. CRIMINAL MISCHIEF

- § 9:1 Introduction
- § 9:2 Degrees
- § 9:3 Elements
- § 9:4 Criminal mental state
- § 9:5 —Intentionally
- § 9:6 —Recklessly
- § 9:7 Lesser included offenses
- § 9:8 Damage to property
- § 9:9 —Property
- § 9:10 —Causation
- § 9:11 ——No reasonable ground for defendant to believe he had right to damage property
- § 9:12 ——Sufficiency of accusatory instrument on issue of lack of permission to damage property
- § 9:13 ——Ownership by someone other than defendant
- § 9:14 ——Value of damaged property
- § 9:15 Loss or return of property
- § 9:16 Sufficiency of identification evidence
- § 9:17 Possession of damaged property not element
- § 9:18 Criminal mischief examples
- § 9:19 Intentionally disabling or removing communications equipment
- § 9:20 Sandoval
- § 9:21 Molineux
- § 9:22 Justification defense
- § 9:23 Sentencing—Consecutive jail terms
- § 9:24 —Harsh and excessive
- § 9:25 —Restitution
- § 9:26 Dismissal in interests of justice
- § 9:27 Relationship to reckless endangerment
- § 9:28 Relationship to making graffiti
- § 9:29 Possession of graffiti instrument
- § 9:30 Taximeter accelerating device
- § 9:31 Constitutionality
- § 9:32 —Multiple act; continuous conduct
- § 9:33 Criminal Mischief as hate crime
- § 9:34 Criminal Tampering

§ 9:35 Raise the age

CHAPTER 10. ARSON

- § 10:1 Introduction
- § 10:2 Related issues
- § 10:3 Damage
- § 10:4 —Criminal mental state relating to damage
- § 10:5 Arson first degree
- § 10:6 Arson second degree
- § 10:7 Arson third degree
- § 10:8 Arson fourth degree
- § 10:9 Arson fifth degree
- § 10:10 Felony-murder
- § 10:11 Attempted arson
- § 10:12 Proof of human agency
- § 10:13 Circumstantial evidence
- § 10:14 Motive
- § 10:15 Evidence: Insurance
- § 10:16 Expert testimony
- § 10:17 Chain of custody
- § 10:18 Defendant's statement; corroboration
- § 10:19 Accomplice's testimony; corroboration
- § 10:20 Use of uncharged crimes
- § 10:21 Evidence of flight
- § 10:22 Charges in alternative
- § 10:23 Common defenses
- § 10:24 —Intoxication
- § 10:25 —Proof defendant set fire
- § 10:26 —Affirmative defense to Arson 3rd
- § 10:27 —Affirmative defense to Arson 4th
- § 10:28 Defense evidentiary considerations
- § 10:29 Suppression issues; delay
- § 10:30 Impeachment of defendant
- § 10:31 *Molineux*
- § 10:32 Statements of defendant
- § 10:33 Lesser included offenses
- § 10:34 Repugnant verdicts and multiplicitous verdicts
- § 10:35 Sentencing
- § 10:36 Youthful Offender
- § 10:37 Adolescent Offender
- § 10:38 SORA
- § 10:39 Damage
- § 10:40 Discovery
- § 10:41 Hate crime
- § 10:42 Restitution
- § 10:43 Sandoval
- § 10:44 Raise the Age legislation/adolescent offenders

TABLE OF CONTENTS

§ 10:45 Immigration Consequences

CHAPTER 11. LARCENY

- § 11:1 Introduction
- § 11:2 Shoplifting
- § 11:3 Relationship to robbery
- § 11:4 “Takes, obtains or withholds”
- § 11:5 Permanent deprivation
- § 11:6 Withhold
- § 11:7 Owner
- § 11:8 Larceny from spouse
- § 11:9 Owner not testifying
- § 11:10 Intent
- § 11:11 Property
- § 11:12 Pleading and proof
- § 11:13 Value
- § 11:14 Aggregation of crimes/of value
- § 11:15 Larceny by trespassory taking
- § 11:16 Larceny by trick
- § 11:17 Larceny by embezzlement
- § 11:18 Issuing bad check
- § 11:19 False pretenses
- § 11:20 Examples of false pretense prosecutions
- § 11:21 False promise and false pretenses compared
- § 11:22 False promise
- § 11:23 —Burden of proof
- § 11:24 —Types of false promise cases
- § 11:25 —Elements
- § 11:26 Lost property
- § 11:27 Extortion
- § 11:28 Construction contracts: Lien Law
- § 11:29 Joint ownership of property
- § 11:30 Trust funds
- § 11:31 Grand larceny 4th degree
- § 11:32 Grand larceny 1st—Examples
- § 11:33 Grand larceny 2nd—Examples
- § 11:34 Grand larceny 3rd degree
- § 11:35 Grand larceny 4th—Value of property taken
- § 11:36 Grand larceny 4th degree—Taking from person
- § 11:37 —Weapon
- § 11:38 —Credit card
- § 11:39 —Forging check
- § 11:40 —Telephone access device
- § 11:41 —Motor vehicle
- § 11:42 Grand larceny 4th—Examples
- § 11:43 Petit larceny
- § 11:44 Procedural considerations—Return of property

- § 11:45 Larceny defenses
- § 11:46 Evidence of larceny
- § 11:47 Larceny: Public benefits
- § 11:48 Accomplice liability
- § 11:49 Related crimes
- § 11:50 Theft of services
- § 11:51 Identity theft—Introduction
- § 11:52 —Crime of identity theft
- § 11:53 Unlawful possession of personal identification information
- § 11:54 Attempt
- § 11:55 Lesser included offenses
- § 11:56 Larceny by employee
- § 11:57 Restitution
- § 11:58 Restitution hearing
- § 11:59 Indigency hearing
- § 11:60 Restitution surcharge
- § 11:61 Larceny by misappropriation of trust funds
- § 11:62 Uncharged crimes
- § 11:63 Health Care Fraud
- § 11:64 Scheme to defraud
- § 11:65 Out of state larceny conviction/second felony
- § 11:66 Dismissal in interests of justice
- § 11:67 Deportation
- § 11:68 Identifying defendant
- § 11:69 *Sandoval*
- § 11:70 Sentencing
- § 11:71 Retail crime
- § 11:72 Restitution
- § 11:73 Mandatory surcharges, DNA databank fees, and crime victim assistance
- § 11:74 *Molineux*
- § 11:75 Statute of limitations
- § 11:76 Repugnant Verdicts
- § 11:77 Youth Offenders and Surcharges
- § 11:78 Removal to Family Court
- § 11:79 Judicial diversion

CHAPTER 12. COMPUTER CRIMES

- § 12:1 Introduction
- § 12:2 Definitions
- § 12:3 Unauthorized use of computer
- § 12:4 Knowingly gain access to computer material
- § 12:5 Computer trespass
 - § 12:6 —Subdivision one—To commit felony
 - § 12:7 —Subdivision two—Gaining access to computer material—Other states
- § 12:8 —Restitution for computer trespass—Other states
- § 12:9 —Attorney discipline
- § 12:10 Computer tampering

TABLE OF CONTENTS

§ 12:11	—Defense
§ 12:12	—Third degree
§ 12:13	—Second degree
§ 12:14	—First degree
§ 12:15	—Other states
§ 12:16	—Sentencing
§ 12:17	Unlawful duplication of computer related material
§ 12:18	—Subdivision one
§ 12:19	—Other states
§ 12:20	—Subdivision two
§ 12:21	Criminal possession of computer related material
§ 12:22	Civil remedy
§ 12:23	Relationship to other statutes
§ 12:24	Dismissal in interests of justice
§ 12:25	Other crimes related to computers

CHAPTER 13. WELFARE FRAUD

§ 13:1	Introduction
§ 13:2	Welfare fraud
§ 13:3	—Degreeing factor
§ 13:4	—Public assistance benefits
§ 13:5	—Relationship to grand larceny
§ 13:6	—Relationship to Social Services Law § 145
§ 13:7	Criminal use of public benefit card
§ 13:8	—Second degree
§ 13:9	—First degree
§ 13:10	Criminal possession of public benefit cards
§ 13:11	Restitution
§ 13:12	Sandoval
§ 13:13	Welfare fraud investigations
§ 13:14	Witness impeachment
§ 13:15	Sentencing
§ 13:16	Relationship to federal felon-in-possession of firearms statute

CHAPTER 14. ROBBERY

§ 14:1	Introduction
§ 14:2	Related issues
§ 14:3	Levels of robbery
§ 14:4	Robbery 1st degree
§ 14:5	Robbery 2nd degree
§ 14:6	Robbery 3rd degree
§ 14:7	Intent
§ 14:8	Taking
§ 14:9	Physical force
§ 14:10	Threat of force
§ 14:11	Consent of owner
§ 14:12	Possessory interest

- § 14:13 Resistance to taking
- § 14:14 "Immediate flight"
- § 14:15 Identity
- § 14:16 Self help
- § 14:17 Multiple crimes
- § 14:18 Accomplice liability
- § 14:19 —Intent of accomplice
- § 14:20 Other crimes
- § 14:21 Attempt
- § 14:22 Evidence
- § 14:23 Lesser included offenses
- § 14:24 Reasonable view of evidence
- § 14:25 Double jeopardy
- § 14:26 Merger doctrine
- § 14:27 Probable cause for search warrant
- § 14:28 Exigent circumstances
- § 14:29 Defense of justification
- § 14:30 Defense of duress
- § 14:31 Restitution
- § 14:32 DNA testing
- § 14:33 SORA
- § 14:34 Youthful offender
- § 14:35 Raise the Age legislation
- § 14:36 Sentencing
- § 14:37 Repugnant verdicts
- § 14:38 Bail

CHAPTER 15. OTHER OFFENSES RELATING TO THEFT

- § 15:1 Introduction
- § 15:2 Misapplication of property
 - Encumbering property
 - Failure to return property
- § 15:5 Unauthorized use of vehicle
 - § 15:6 —Vehicle
 - § 15:7 —Lack of consent
 - § 15:8 —Use of vehicle
- § 15:9 Theft of services
- § 15:10 Stolen property offenses
 - § 15:11 —Aggregation
 - § 15:12 —Levels
 - § 15:13 —Property
 - § 15:14 —Knowledge
 - § 15:15 —Possession
 - § 15:16 —Lost property
 - § 15:17 —Value
- § 15:18 Stolen Property Offenses—Joinder
- § 15:19 Probable cause

TABLE OF CONTENTS

- § 15:20 Intent
- § 15:21 Statute of limitations
- § 15:22 Lack of permission and authority
- § 15:23 Credit card, debit card and public benefit card
- § 15:24 Stolen property element
- § 15:25 Stolen vehicles
- § 15:26 —Codefendants
- § 15:27 —Presumptions
- § 15:28 —Secondhand dealers
- § 15:29 —Recent and exclusive possession; presumption
- § 15:30 —Another presumption
- § 15:31 —Evidence
- § 15:32 —Corroboration
- § 15:33 —Property recovered by police
- § 15:34 Auto stripping
- § 15:35 Trademark counterfeiting 3rd degree
- § 15:36 Trademark counterfeiting
- § 15:37 Unlawful use of scientific material
- § 15:38 Sentencing
- § 15:39 Transfer to Family Court
- § 15:40 Restitution
- § 15:41 Unlicensed General Vending

CHAPTER 16. FORGERY

- § 16:1 Introduction
- § 16:2 Definitions
- § 16:3 Forgery third degree
- § 16:4 Forgery second degree
- § 16:5 E-mail
- § 16:6 Forgery first degree
- § 16:7 Written instruments
- § 16:8 Required intent
- § 16:9 Examples of falsely making, completing or altering written instrument
- § 16:10 —Proving defendant signed another's name
- § 16:11 Relationship to criminal possession of forged instrument
- § 16:12 Sufficiency of accusatory instrument—Officer's credentials
- § 16:13 Restitution
- § 16:14 Sandoval
- § 16:15 Admissibility of uncharged forgeries
- § 16:16 Evidence/handwriting expert
- § 16:17 Other expert witnesses
- § 16:18 Evidence/handwriting expert—Best evidence rule
- § 16:19 Venue
- § 16:20 Lawyer discipline
- § 16:21 Repugnant verdicts
- § 16:22 *Molineux*
- § 16:23 Criminal possession of forgery devices

- § 16:24 Falsifying business records
- § 16:25 Sentencing

CHAPTER 17. CRIMINAL POSSESSION OF FORGED INSTRUMENT

- § 17:1 Introduction
- § 17:2 Definitions
- § 17:3 Criminal possession of forged instrument third
 - Examples
- § 17:5 Criminal possession of forged instrument second
 - Presumption
 - Examples
 - Sentencing
- § 17:9 Criminal possession of forged instrument first
 - Examples
- § 17:11 Forged instrument
- § 17:12 Possession
- § 17:13 Intent to defraud, deceive or injure another
- § 17:14 Knowledge that instrument is forged
- § 17:15 Restitution
- § 17:16 Relationship to forgery
- § 17:17 Sentencing
- § 17:18 Best evidence rule
- § 17:19 Sandoval
- § 17:20 *Molineaux*
- § 17:21 Admissibility of uncharged crimes/*Molineaux*
- § 17:22 —Criminal possession of forgery device
- § 17:23 Examples of forgery devices
- § 17:24 Accessory
- § 17:25 Relationship to other violations

CHAPTER 18. INSURANCE FRAUD

- § 18:1 Introduction
- § 18:2 Written statements
- § 18:3 Related laws; repugnant verdict
- § 18:4 Venue
- § 18:5 Personal vs. commercial insurance
- § 18:6 Pleading; duplicitous count
- § 18:7 Materiality as element
- § 18:8 Aggravated insurance fraud
 - Predicate offense charged in special information
- § 18:10 Amount in issue
- § 18:11 Aggregation
- § 18:12 *Molineaux*
- § 18:13 Insurance fraud: Examples
- § 18:14 Health care insurance fraud: Examples
- § 18:15 Life settlement fraud—Second degree

TABLE OF CONTENTS

CHAPTER 19. PRESCRIPTION DIVERSION

- § 19:1 Introduction
- § 19:2 Related statutes
- § 19:3 First degree offense
- § 19:4 “Value of benefit exchanged”
- § 19:5 Third degree: Predicate conviction
- § 19:6 Attempt: Undercover agent
- § 19:7 Aggregation of acts prohibited
- § 19:8 Fourth degree

CHAPTER 20. OTHER FRAUDS

- § 20:1 Other frauds—Article 190
- § 20:2 Issuing bad check (IBC)
- § 20:3 Post-dated check not within statute
- § 20:4 Defenses
- § 20:5 IBC as larceny offense
- § 20:6 —Evidence of other bad checks
- § 20:7 Civil liability
- § 20:8 Collateral consequences
- § 20:9 False personation
- § 20:10 Scheme to defraud
- § 20:11 Criminal impersonation
- § 20:12 Unlawful possession of personal identification information
- § 20:13 Identity theft
- § 20:14 Usury
- § 20:15 Residential mortgage fraud

CHAPTER 21. OFFICIAL MISCONDUCT AND OBSTRUCTING PUBLIC SERVANTS

- § 21:1 Official misconduct—Introduction
- § 21:2 —Generally
- § 21:3 —Examples
- § 21:4 —Benefit
- § 21:5 Obstructing governmental administration
- § 21:6 —Refusal to provide information
- § 21:7 —Examples
- § 21:8 Defrauding government

CHAPTER 22. BRIBERY

- § 22:1 Introduction
- § 22:2 Elements
- § 22:3 Degrees
- § 22:4 Definition—Public servant
- § 22:5 —Authority of public servant
- § 22:6 —Benefit
- § 22:7 Examples of bribery

- § 22:8 —Not bribery
- § 22:9 Defense
- § 22:10 Benefit or offer thereof must precede illegal conduct
- § 22:11 —Crime of giving unlawful gratuities
- § 22:12 Receiving unlawful gratuities
- § 22:13 Relationship to right to counsel
- § 22:14 Sandoval
- § 22:15 Molineaux
- § 22:16 Bribing witness

CHAPTER 23. BRIBE RECEIVING

- § 23:1 Introduction
- § 23:2 Elements
- § 23:3 —Proving agreement—Admissibility of prior uncharged bribes
- § 23:4 Degrees
- § 23:5 Definition—Public servant
- § 23:6 —Benefit
- § 23:7 Examples
- § 23:8 Not defense
- § 23:9 Circumstantial evidence
- § 23:10 Bribe giving and receiving for public office

CHAPTER 24. *[Reserved]*

CHAPTER 25. GIVING AND RECEIVING UNLAWFUL GRATUITIES

- § 25:1 Introduction
- § 25:2 Elements
- § 25:3 Relationship to bribery
- § 25:4 Not lesser included offense of bribery
- § 25:5 Receiving reward for official misconduct
- § 25:6 Definition—Public servant
- § 25:7 —Benefit
- § 25:8 Proving duty was violated

CHAPTER 26. ESCAPE AND OTHER OFFENSES RELATED TO CUSTODY

- § 26:1 Introduction
- § 26:2 Definitions of terms
- § 26:3 Escape
- § 26:4 Attempted escape
- § 26:5 Promoting prison contraband
- § 26:6 —Dangerous instrument
- § 26:7 —Provision or possession of contraband
- § 26:8 —Confinement
- § 26:9 Resisting arrest

TABLE OF CONTENTS

§ 26:10	—Lawful arrest
§ 26:11	—Acts within statute
§ 26:12	—Peace officers
§ 26:13	—Defense to charge: Justification
§ 26:14	Prison discipline
§ 26:15	Escape attempt
§ 26:16	Hindering prosecution
§ 26:17	Dismissal When Underlying Charge is Dismissed

CHAPTER 27. PERJURY

§ 27:1	Introduction
§ 27:2	Making a punishable false written statement
§ 27:3	Materiality
§ 27:4	Testimony
§ 27:5	Proceeding
§ 27:6	Sufficiency of the accusatory instrument
§ 27:7	Perjury first degree
§ 27:8	Perjury second and third degree
§ 27:9	Corroboration
§ 27:10	Administration of oath
§ 27:11	Truth and falsity; “Bronston defense”
§ 27:12	Truth and falsity; ambiguous answer defense
§ 27:13	Accomplice—Coaching
§ 27:14	—Corroboration
§ 27:15	Defense of retraction
§ 27:16	Defense of duress
§ 27:17	Defense of ambiguous question or answer
§ 27:18	Defense of failed memory rejected
§ 27:19	Sandoval
§ 27:20	Suborning perjury
§ 27:21	Relationship to self-incrimination
§ 27:22	Relationship to public trial
§ 27:23	Sentence enhancement
§ 27:24	Relationship to federal crimes
§ 27:25	Legally sufficient evidence
§ 27:26	Enhancement of sentence due to perjury
§ 27:27	Venue and jurisdiction
§ 27:28	“Particular effect” jurisdiction
§ 27:29	Perjury warning by judge or prosecutor
§ 27:30	Multiplicitous perjury charges

CHAPTER 28. OTHER OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS

§ 28:1	Introduction
§ 28:2	Tampering with a witness
§ 28:3	Intimidating victim or witness
§ 28:4	Proof of intimidation with other witnesses; joinder

- § 28:5 Hindering prosecution
- § 28:6 Bribery and bribe receiving
- § 28:7 —Cooperation agreement with prosecution
- § 28:8 Bail jumping
- § 28:9 Gratuity to juror
- § 28:10 Filing a false report
- § 28:11 Criminal contempt, generally
- § 28:12 Restitution
- § 28:13 Criminal contempt 1st degree, subdivision (b)
- § 28:14 Constitutionality
- § 28:15 Criminal contempt 1st degree, subdivision (c)
- § 28:16 Criminal contempt 1st degree, subdivision (d)
- § 28:17 Criminal contempt 2nd degree, subdivision 1
- § 28:18 Criminal contempt 2nd degree, subdivision 2
- § 28:19 Criminal contempt 2nd degree, subdivision 3
- § 28:20 Relationship between criminal contempt and aggravated family offense
- § 28:21 Communication
- § 28:22 Knowledge
- § 28:23 Attempted criminal contempt 2nd degree
- § 28:24 Sufficiency of accusatory instrument
- § 28:25 Attempted criminal contempt
- § 28:26 Relationship to judiciary law contempt
- § 28:27 Relationship to Aggravated family offense
- § 28:28 Deportation
- § 28:29 *Sandoval*
- § 28:30 *Ventimiglia*
- § 28:31 Order of protection
- § 28:32 —Notice to defendant
- § 28:33 —Order issued by judicial hearing officer
- § 28:34 —Intimate relationship
- § 28:35 —Subsequent vacatur of the order of protection
- § 28:36 Defendant ordered out of his residence
- § 28:37 Aggravated criminal contempt
- § 28:38 Phone records
- § 28:39 Sentencing
- § 28:40 SORA
- § 28:41 Tampering with physical evidence
- § 28:42 Repugnant verdicts
- § 28:43 Duplicitous charges
- § 28:44 Joinder

CHAPTER 29. DRUG OFFENSES

- § 29:1 Introduction
- § 29:2 Related statutes
- § 29:3 Controlled substance
- § 29:4 Sale of drugs
- § 29:5 Intent to sell

TABLE OF CONTENTS

§ 29:6	Knowledge
§ 29:7	Sale of drugs—Attempt
§ 29:8	Automobile presumption
§ 29:9	Presence of drugs in room—Presumption
§ 29:10	Uncharged crimes evidence
§ 29:11	Constructive possession
§ 29:12	Possession
§ 29:13	—Attempt
§ 29:14	Sufficiency of accusatory instrument
§ 29:15	Criminal possession of controlled substance 1st
§ 29:16	Evidence
§ 29:17	Suppression
§ 29:18	Dog sniffs
§ 29:19	<i>Sandoval</i>
§ 29:20	Expert evidence
§ 29:21	Agency
§ 29:22	Medical emergency defense
§ 29:23	Weight
§ 29:24	Accomplice and accessory liability
§ 29:25	Accomplice liability—Sale
§ 29:26	Collateral consequences
§ 29:27	Public Health Law drug schedules
§ 29:28	Lesser included offenses
§ 29:29	Repugnant verdicts
§ 29:30	Unlawful manufacture of methamphetamine
§ 29:31	LSD
§ 29:32	Drug Law Reform Act 2005
§ 29:33	Drug Law Reform Act 2009
§ 29:34	Second felony drug offender
§ 29:35	Criminally using drug paraphernalia
§ 29:36	Sentencing
§ 29:37	Domestic Violence Survivors Justice Act (DVSJA)
§ 29:38	Judicial diversion
§ 29:39	Deportation
§ 29:40	Agency defense
§ 29:41	Defense of entrapment
§ 29:42	Adjournment in contemplation of dismissal
§ 29:43	Confidential informants
§ 29:44	Closure of court for undercover officers
§ 29:45	Promoting prison contraband
§ 29:46	Criminally possessing hypodermic needle
§ 29:47	<i>Molineux</i>
§ 29:48	Sealing
§ 29:49	Bail
§ 29:50	Criminal liability for overdose
§ 29:51	Judicial diversion
§ 29:52	Relationship of federal and state crimes; Double Jeopardy

CHAPTER 30. OFFENSES INVOLVING CANNABIS

- § 30:1 Introduction
- § 30:2 Definitions
- § 30:3 Legalization
- § 30:4 Unlawful possession of cannabis
- § 30:5 Criminal possession of cannabis
- § 30:6 Possession
- § 30:7 Drug factory presumption
- § 30:8 Knowing possession—Relationship to other crimes
- § 30:9 Sale of cannabis
- § 30:10 Accessorial liability
- § 30:11 Proving cannabis
- § 30:12 Weight
- § 30:13 Probable Cause and Searches
- § 30:14 Sealing, Expungement, and Resentencing
- § 30:15 Adjournment in contemplation of dismissal
- § 30:16 Sentencing—Driver's license suspension
- § 30:17 —Plea bargaining
- § 30:18 —Consolidation
- § 30:19 —Harsh and excessive
- § 30:20 —Enhanced for interim use of marijuana
- § 30:21 Sex Offender Registration Act
- § 30:22 *Molineux*
- § 30:23 *Sandoval*
- § 30:24 Violation of probation or parole
- § 30:25 Suppression hearing
- § 30:26 Drug Law Reform Act
- § 30:27 Judicial diversion
- § 30:28 Synthetic cannabinoids
- § 30:29 Medical marijuana
- § 30:30 Criminally negligent homicide

CHAPTER 31. GAMBLING

- § 31:1 Introduction
- § 31:2 New York City Administrative Code
- § 31:3 Mere player
- § 31:4 Definition of gambling
- § 31:5 —Something of value
- § 31:6 Promoting gambling
- § 31:7 —Second degree
- § 31:8 —First degree
- § 31:9 ——Lottery
- § 31:10 —Sufficiency of evidence
- § 31:11 —Sufficiency of accusatory instrument
- § 31:12 —Sufficiency of probable cause for search warrant
- § 31:13 —Sufficiency of probable cause for eavesdropping warrant
- § 31:14 —Internet gambling

TABLE OF CONTENTS

- § 31:15 Possessory offenses
- § 31:16 Possession of gambling records
 - Defense to possession of gambling records
- § 31:18 Possession of gambling device
- § 31:19 Possession of a gambling device—Defense concerning slot machines
- § 31:20 Presumptions applicable to gambling offenses
- § 31:21 “Victimless crime”
- § 31:22 Loitering for purposes of gambling
- § 31:23 Accessory liability
- § 31:24 Geographical jurisdiction
- § 31:25 Relationship to enterprise corruption
 - Related crimes

CHAPTER 32. PROSTITUTION AND RELATED OFFENSES

- § 32:1 Introduction
- § 32:2 Sexual conduct
- § 32:3 Engaging in sexual conduct
- § 32:4 Crime of prostitution
- § 32:5 Sufficiency of evidence
- § 32:6 Crime of prostitution—Sufficiency of accusatory instrument charging prostitution
 - Gender of parties immaterial
 - Prostitution conviction affects witness credibility
 - Affirmative defense
- § 32:10 Crime of patronizing a person for prostitution
- § 32:11 Degrees
 - Degrees
 - Attempted third degree
 - Sufficiency of accusatory instrument
 - Undercover police officer
 - Undercover officer’s shield number as valid signature
 - Gender of parties immaterial
 - Statutory defense relating to age
 - Entrapment defense
 - Sentencing
 - Forfeiture of car
 - Grounds for dismissal of police officer
- § 32:22 Crime of patronizing a person for prostitution in a school zone
- § 32:23 Crime of promoting prostitution in a school zone
- § 32:24 Crime of aggravated patronizing a minor for prostitution
- § 32:25 Crime of compelling prostitution
- § 32:26 Crime of promoting prostitution
 - Degrees
 - Fourth degree
 - Third degree
 - Second degree
 - Examples
 - Accomplice

- § 32:33 SORA
- § 32:34 —Foreign offense
- § 32:35 Sex Offender Victim Fee
- § 32:36 Inference of knowingly advancing or profiting from prostitution
- § 32:37 Attempt
- § 32:38 Selective prosecution not proved
- § 32:39 Crime of permitting prostitution
- § 32:40 Crime of loitering for purposes of engaging in prostitution
- § 32:41 Sufficiency of accusatory instrument
- § 32:42 Sex trafficking
- § 32:43 —Accomplice
- § 32:44 —Evidence
- § 32:45 —Jurisdiction
- § 32:46 —Jury Instructions
- § 32:47 *Molineux*
- § 32:48 Lesser included charges
- § 32:49 Victims of sex trafficking

CHAPTER 33. HARASSMENT AND AGGRAVATED HARASSMENT

- § 33:1 Introduction to harassment offenses
- § 33:2 Introduction to harassment first degree—“Stalking”
- § 33:3 Fear of physical injury
- § 33:4 Course of conduct
- § 33:5 Reasonable fear
- § 33:6 Examples
- § 33:7 Repeat offenders
- § 33:8 Exclusion of conduct regulated by other statutes
- § 33:9 Introduction to harassment second degree
- § 33:10 Mens rea
- § 33:11 Subdivisions of harassment second degree
- § 33:12 —Subdivision one
- § 33:13 Connection with SORA
- § 33:14 Subdivisions of harassment second degree—Subdivision two
- § 33:15 —Subdivision three
- § 33:16 Abusive language prohibition unconstitutional
- § 33:17 Exclusion of conduct regulated by federal labor laws
- § 33:18 Lesser included offenses
- § 33:19 Relationship to juvenile delinquency
- § 33:20 Evidence of prior uncharged harassment
- § 33:21 Relationship to criminal contempt
- § 33:22 Dismissal in interests of justice
- § 33:23 Harassment referenced in other statutes
- § 33:24 Deportation
- § 33:25 Justification defense
- § 33:26 Medication defense
- § 33:27 Aggravated harassment, generally

TABLE OF CONTENTS

- § 33:28 —Criminal mental state
- § 33:29 Aggravated harassment second degree—First subdivision
 - § 33:30 —first subdivision (revised)
 - § 33:31 —Second subdivision
 - § 33:32 Aggravated harassment second subdivision—Sentencing
 - § 33:33 Aggravated harassment second degree—Second subdivision—E-mail and voice messaging
 - § 33:34 —Identity of caller
 - § 33:35 —Third subdivision
 - § 33:36 —Fourth subdivision
 - § 33:37 —Fifth subdivision
 - § 33:38 Aggravated harassment first degree
 - § 33:39 Aggravated harassment of employee by inmate
 - § 33:40 —Definition of “inmate”
 - § 33:41 Constitutionality
 - § 33:42 Justification
 - § 33:43 Recusal
 - § 33:44 Double jeopardy
 - § 33:45 *Molineaux*
 - § 33:46 —Ventimiglia
 - § 33:47 Relationship to other crimes
 - § 33:48 Violation of probation
 - § 33:49 Defense of sex trafficking victim
 - § 33:50 Falsely reporting an incident
 - § 33:51 Aggravated Family Offense

CHAPTER 34. DISORDERLY CONDUCT

- § 34:1 Introduction
- § 34:2 Prohibited behavior must occur in public
 - § 34:3 —Family offense exception
- § 34:4 Mens rea
- § 34:5 Subdivision one
- § 34:6 Subdivision two
- § 34:7 Subdivision three
 - § 34:8 —Relationship to offense of harassment
 - § 34:9 Subdivision four
 - § 34:10 Subdivision five
 - § 34:11 Subdivision six
 - § 34:12 Subdivision seven
 - § 34:13 Miscellaneous conduct
 - § 34:14 Sandoval
 - § 34:15 Dismissal in the interests of justice
 - § 34:16 Sex trafficking victims
 - § 34:17 Effect of conviction on sentencing in subsequent case
 - § 34:18 Effect of conviction on pistol permit application
 - § 34:19 Effect of conviction on action for false arrest
 - § 34:20 Effect of arrest on violation of probation

- § 34:21 Disorderly conduct and public nuisance compared
- § 34:22 Disorderly conduct referenced in other statutes
- § 34:23 Plea bargaining
- § 34:24 Justification defense
- § 34:25 Aggravated disorderly conduct
- § 34:26 Falsely reporting an incident
- § 34:27 Loitering
- § 34:28 Riot
- § 34:29 Lesser included offenses
- § 34:30 SORA

CHAPTER 35. OFFENSES AGAINST RIGHT TO PRIVACY

- § 35:1 Introduction
- § 35:2 Eavesdropping
- § 35:3 Procedural bar to using conversations
 - Family law issues
 - Attorney's role
- § 35:6 Possession of eavesdropping device
- § 35:7 Failure to report wiretapping; failure to report criminal communications
- § 35:8 Divulging eavesdropping warrant
- § 35:9 Tampering with private communications
- § 35:10 Unlawfully obtaining communications information
- § 35:11 Unlawful videotaping: Stephanie's law
- § 35:12 Sentencing
- § 35:13 Unlawful disclosure of an intimate image

CHAPTER 36. OFFENSES AFFECTING MARITAL RELATIONSHIP

- § 36:1 Introduction
- § 36:2 Bigamy
- § 36:3 Adultery
- § 36:4 Incest
- § 36:5 Affirmative defense

CHAPTER 37. OFFENSES RELATING TO CHILDREN AND INCOMPETENTS

- § 37:1 Introduction
- § 37:2 Related references
- § 37:3 Abandonment of child
- § 37:4 Non-support of child
- § 37:5 Endangering welfare of child
- § 37:6 Knowingly
- § 37:7 Likelihood of harm
- § 37:8 Proof issues
- § 37:9 Relationship of EWOC to assault
- § 37:10 Sexual conduct as constituting endangering

TABLE OF CONTENTS

- § 37:11 Endangering welfare of child—Domestic violence as constituting endangering
- § 37:12 —Fetus as “child” for EWOC purposes
- § 37:13 —Defense to EWOC
- § 37:14 EWOC—Evidence
- § 37:15 —Establishing age
- § 37:16 —Sworn testimony by young complainant
- § 37:17 —Conditions of probation
- § 37:18 Attempted endangering welfare of child
- § 37:19 Relationship to course of sexual conduct against a child
- § 37:20 Proving age
- § 37:21 Defense of justification
- § 37:22 Continuing nature of EWOC
- § 37:23 Unlawfully dealing with child 1st and 2nd degrees
- § 37:24 Endangering welfare of incompetent or physically-disabled person
- § 37:25 Misrepresentation by child day care provider
- § 37:26 Elder abuse
- § 37:27 Alcohol and minors
- § 37:28 Predatory sexual assault against child
- § 37:29 Course of sexual conduct against a child
- § 37:30 Impact of EWOC conviction on Sex Offender Registration Act
- § 37:31 Unlawfully dealing with child
- § 37:32 Sentencing
- § 37:33 Deportation
- § 37:34 Repugnant verdicts
- § 37:35 Duplicitous verdicts
- § 37:36 SORA
- § 37:37 Constitutionality
- § 37:38 Merger of EWOC with Kidnapping
- § 37:39 Orders of protection

CHAPTER 38. OBSCENITY AND SEXUAL PERFORMANCE BY CHILD

- § 38:1 Obscenity, generally
- § 38:2 Defining “obscenity”
- § 38:3 Obscenity in third degree
- § 38:4 Obscenity in second degree
- § 38:5 Obscenity in first degree
- § 38:6 Obscenity; presumptions
- § 38:7 Defenses
- § 38:8 Disseminating indecent material to minors in second degree
- § 38:9 Disseminating indecent material to minors in first degree
- § 38:10 Disseminating indecent material to minors; presumptions and defenses
- § 38:11 Disseminating indecent material to minors; limitations
- § 38:12 Sexual performance by child, generally
- § 38:13 Constitutional challenges
- § 38:14 Definitions
- § 38:15 Affirmative defense: Belief about age

- § 38:16 Affirmative defense: Employment
- § 38:17 Proof of age of child
- § 38:18 Punishment
- § 38:19 Grand jury
- § 38:20 Evidence

CHAPTER 39. WEAPONS OFFENSES

- § 39:1 Introduction
- § 39:2 Related statutes
- § 39:3 Accomplices/codefendants
- § 39:4 Presumptions
- § 39:5 Automobile presumption
- § 39:6 Operability
- § 39:7 Loaded
- § 39:8 Weapon
- § 39:9 Knowledge
- § 39:10 Intent to use unlawfully
- § 39:11 Criminal sale of a firearm first degree
- § 39:12 Criminal possession of weapon first degree
- § 39:13 Criminal possession of weapon second degree
- § 39:14 Criminal possession of a weapon second degree—Circumstantial evidence
- § 39:15 —Definition of a firearm
- § 39:16 —Juvenile delinquent
- § 39:17 Weapons possession 3rd
- § 39:18 Attempted criminal possession 3rd
- § 39:19 Weapons possession 4th
- § 39:20 Temporary innocent possession and voluntary surrender defenses
- § 39:21 Lack of reasonable suspicion to pursue
- § 39:22 Reporting of burns and wounds
- § 39:23 Constructive possession
- § 39:24 Justification
- § 39:25 Suppression attempts
- § 39:26 Criminal Possession of a firearm
- § 39:27 Criminal sale of firearms
- § 39:28 Aggregation
- § 39:29 Criminal use of firearm
- § 39:30 Criminal sale of a firearm
- § 39:31 Conspiracy
- § 39:32 Immunity
- § 39:33 Sentencing
- § 39:34 Domestic Violence Survivors Justice Act
- § 39:35 Defenses provided by federal law
- § 39:36 Defenses provided by state law
- § 39:37 Dismissal in the interests of justice
- § 39:38 Sandoval
- § 39:39 Relationship to robbery first degree
- § 39:40 Repugnant verdicts

TABLE OF CONTENTS

- § 39:41 Constitutionality
- § 39:42 Youthful offender
- § 39:43 Crime of terrorism
- § 39:44 DNA samples
- § 39:45 Lesser included offenses
- § 39:46 Dismissal in the interests of justice
- § 39:47 Adolescent Offender
- § 39:48 Firearm Licenses and Registration
- § 39:49 Molineux
- § 39:50 Sex offender registration act
- § 39:51 Joinder

CHAPTER 40. UNAUTHORIZED RECORDINGS

- § 40:1 Introduction
- § 40:2 Related statutes
- § 40:3 Federal preemption
- § 40:4 Manufacture or sale of unauthorized recording
- § 40:5 —“Sale” of unauthorized recording
- § 40:6 Failure to disclose origin
- § 40:7 Limitation
- § 40:8 Destruction of seized property

CHAPTER 41. MONEY LAUNDERING

- § 41:1 Introduction
- § 41:2 Degrees
- § 41:3 Intent to conceal
- § 41:4 Equivalent property
- § 41:5 Transaction
- § 41:6 Attempted money laundering
- § 41:7 An exchange not constituting money laundering
- § 41:8 Fines
- § 41:9 Basis for attorney disbarment
- § 41:10 Basis for termination of law enforcement officer
- § 41:11 Money laundering in support of terrorism

CHAPTER 42. HATE CRIMES

- § 42:1 Introduction
- § 42:2 Hate crimes—Other jurisdictions
- § 42:3 Legislative findings
- § 42:4 Constitutionality
- § 42:5 Intent
- § 42:6 Bias, hatred or prejudice not required
- § 42:7 Examples
- § 42:8 Evidence—Prior Bad Acts
- § 42:9 Identity of victim
- § 42:10 Sentencing
- § 42:11 Inclusory concurrent

- § 42:12 Application to juvenile delinquents
- § 42:13 Buildings as victim
- § 42:14 Inconsistent verdicts

CHAPTER 43. TERRORISM

- § 43:1 Introduction
- § 43:2 Definitions
- § 43:3 Soliciting or providing aid for act of terrorism 1st and 2nd
- § 43:4 Making terrorist threat
- § 43:5 Terrorism
- § 43:6 Hindering prosecution of terrorism 1st and 2nd degrees

CHAPTER 44. DRIVING WHILE INTOXICATED OFFENSES

- § 44:1 Introduction
- § 44:2 DWI: Common law and statutory charges
- § 44:3 Driving while ability impaired
- § 44:4 Aggravated driving while intoxicated
- § 44:5 Driving while ability impaired by drugs
- § 44:6 Driving while ability impaired by combined influence of drugs or alcohol or of alcohol and any drug
- § 44:7 "Zero tolerance" law
- § 44:8 Attempted DWI not crime
- § 44:9 Enhanced offense: DWAI to DWI
- § 44:10 Felony DWI; Special information
- § 44:11 Leandra's Law
- § 44:12 Operation
- § 44:13 Motor vehicle
- § 44:14 Public highway
- § 44:15 Private roadway
- § 44:16 Parking lot
- § 44:17 Intoxication
- § 44:18 Evidence of intoxication or impairment
- § 44:19 Performance tests
- § 44:20 Chemical tests
- § 44:21 Blood test
- § 44:22 Two-hour rule
- § 44:23 Evidence inadmissible
- § 44:24 Refusal to take chemical test
- § 44:25 Lesser included offenses
- § 44:26 Justification defense
- § 44:27 Defense of drugging
- § 44:28 Plea bargaining limitations with DWI charge
- § 44:29 Sentencing
- § 44:30 Double jeopardy
- § 44:31 Collateral consequences of DWAI/DWI conviction
- § 44:32 Retention of vehicle
- § 44:33 Ignition interlock provisions

TABLE OF CONTENTS

- § 44:34 Interstate compact
- § 44:35 Fourth amendment issues
- § 44:36 Self-incrimination
- § 44:37 Joinder
- § 44:38 Speeding: Introduction
- § 44:39 Speeding: Elements/proof
- § 44:40 Hardship licenses

CHAPTER 45. OFFENSES WITH IMMIGRATION IMPLICATIONS

- § 45:1 Introduction
- § 45:2 *Strickland* standard
- § 45:3 Duty to advise of potential for removal
- § 45:4 Proper procedure
- § 45:5 Retroactivity
- § 45:6 Crime of immigrant assistant services fraud

Table of Laws and Rules

Table of Cases

Index