

Preface

FEDERAL CRIMES identifies the important things to know about the most commonly charged federal crimes:¹

- elements
- required mental states
- defenses
- definitions
- Department of Justice policies
- sentencing enhancements

This very definitely includes issues that are not apparent from the text of the statute.

The first five chapters of FEDERAL CRIMES are devoted to subjects—mens rea, inchoate crimes, common defenses, *Apprendi*, etc.—that apply generally throughout the United States Code. **Read these chapters first.**

Individual federal crimes are arranged in the order that they appear in the United States Code. This is usually a logical sequence, but sometimes related crimes are not found in contiguous sections or chapters. Look for cross-references in the text and use the table of contents and index to find related crimes.

Coverage of individual crimes begins with the name and statute number, followed by an italicized excerpt of the statute (edited for concision). This is followed by a formal elements list and a succinct but complete annotation.

The primary sources used in compiling the elements lists and annotations are the **official circuit pattern jury instructions**. Official pattern instructions and the annotations that accompany them are written by committees of senior judges. They are bullet-proof authority on issues of consequence. Since the instructions are often updated, citations to the instructions are to the instruction number, not to the page or date.²

FEDERAL CRIMES also cites recent and relevant **Congressional Research Service (CRS) Reports**. These are Library of

¹ Covering every federal crime would be close to impossible. *See Van Buren v. United States*, 593 U.S. 374, 408 (2021) (Thomas, J. dissenting) (“The number of federal laws and regulations that trigger criminal penalties may be as high as several hundred thousand.”).

² At this writing, official criminal pattern jury instructions are published by the Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits. All have been updated since 2023. Current links to all of the circuits are posted at <https://trialdex.com>.

Congress “think tank” reports prepared for members of Congress. CRS *Reports* are particularly valuable for their authoritative summaries of legislative history.

Department of Justice (DOJ) prosecution policies are published in the *Justice Manual* (formerly the *United States Attorneys’ Manual* (USAM)), posted on the Internet at <https://www.justice.gov/jm/justice-manual>. General principles are in *Justice Manual* Chapters 9 27.000 (Principles of Federal Prosecution) and 9-28.000 (Principles of Federal Prosecution of Business Organizations), but specific policies regarding individual crimes appear throughout the *Justice Manual* and are accordingly referenced here.

DOJ policies may be announced in public and non-public memoranda that may or may not be immediately incorporated into the *Justice Manual*. If a prosecution policy has been formally promulgated and published in the *Justice Manual*, it will be noted here as DOJ policy. Prosecution policies that have not been published in the *Justice Manual* but have somehow made it to the Internet will be noted as well, but the emphasis will be on policies adopted and promulgated in the *Justice Manual*.

Many of the articles published in the *Department of Justice Journal of Federal Law and Practice* (before 2018, the *United States Attorneys’ Bulletin*) are detailed practice guides written by federal attorneys who have extensive experience or supervisory authority over the subject matter. They are not “policy,” but are high-value resources often cited in FEDERAL CRIMES. Other publicly available DOJ practice manuals cited here are the *Criminal Tax Manual* (2022), *Criminal RICO: 18 U.S.C. §§ 1961-1968* (the *Criminal RICO Manual*) (May 2016), *Prosecuting Intellectual Property Crimes* (2014), and *Prosecuting Computer Crimes* (2010).

Citations to United States Sentencing Guidelines are to the November 2024 *Sentencing Guidelines Manual* and *Sentencing Guidelines Primers*.³

³ These are posted by the United States Sentencing Commission at <https://www.ussc.gov/guidelines/2024-guidelines-manual-annotated> and <https://www.ussc.gov/product-type/primers>.