Volume 1

PAR	T INTRODUCTION	
§ 1:1	PTER 1. INTRODUCTION	1
	T I. ARREST AND CRIMINAL INVESTIGATIVE PROCEDURES	
	PTER 2. THE EXCLUSIONARY RULE; ERAL PRINCIPLES	3
§ 2:1	Scope of chapter	
§ 2:2		
§ 2:3	Direct and derivative evidence; "fruit of the poisonous tree"	
§ 2:4	Good faith of officer conducting search pursuant to warrant	
§ 2:5	The independent source exception	
§ 2:6	The inevitable discovery exception	
§ 2:7	Attenuation	
§ 2:8	Discovery of prosecution witness	
§ 2:9 § 2:10	Confessions obtained Impeachment	
§ 2:10 § 2:11	Real evidence discovered as a result of <i>Miranda</i>	
ς 2.11	violation	
§ 2:12	Non-trial proceedings	
§ 2:13	Civil and quasi-criminal proceedings	
CHA	PTER 3. STOP-AND-FRISK	31
§ 3:1	General considerations	
§ 3:2	First tier encounters	
§ 3:3	What constitutes a stop?	
§ 3:4	Facts justifying the stop	
§ 3:5	—Collective knowledge of officers; BOLO	
§ 3:6	—Appearance	

§ 3:7	—Airport drug courier profile	
§ 3:8	—Ships and boats	
§ 3:9	—Conduct	
§ 3:10	—Tipsters, informants, and concerned citizens	
§ 3:11	—Environment	
§ 3:12	Roadblocks	
§ 3:13	Extension of the <i>Terry</i> stop	
§ 3:14	When does a "stop" become an "arrest"?	
§ 3:15	Brief retention of inanimate objects without probable cause	
§ 3:16	The Terry frisk	
§ 3:17	Scope of the Terry frisk	
СНА	PTER 4. ARRESTS	111
§ 4:1	Definitions of arrest	111
§ 4:2		
§ 4:3	·	
§ 4:4	•	
§ 4:5		
§ 4:6	Right to resist illegal arrest	
§ 4:7	9	
§ 4:8	Overview of prerequisites for warrantless arrests	
§ 4:9	Probable cause, generally	
§ 4:10	Probable cause to arrest	
§ 4:11	—Illustrative cases	
§ 4:12	Arrest by officer	
§ 4:13	—Offense committed in presence of officer	
§ 4:14	—Offender is trying to escape	
§ 4:14 § 4:15	—Act of family violence	
§ 4:16	· · · · · · · · · · · · · · · · · · ·	
8 4:10	Warrantless arrest by officer—Physical abuse against vulnerable adult	
§ 4:17	—Failure of justice	
§ 4:17	Arrest warrants	
§ 4:10		
-	Magistrates who may issue arrest warrants	
§ 4:20	Arrests by a private citizen	
§ 4:21	Custody and disposition after arrest	
§ 4:22	Extradition of fugitives—The Uniform Criminal Extradition Act	
СНА	PTER 5. SEARCH AND SEIZURE	165
§ 5:1	Definitions of search and seizure	109
§ 5.1 § 5:2	Protected areas and interests	
§ 5.2 § 5:3	—Curtilage of residences	
§ 5:3 § 5:4	· ·	
8 0.4	—Cell phones	

§ 5:5	—Location information; cell sites (CSLI) and geofence warrants
§ 5:6	Property which may be seized
§ 5:7	Unreasonable delay in searching seized property
§ 5:8	Who may apply for a search warrant?
§ 5:9	Judicial officers who may issue search warrants
§ 5:10	—Neutral and detached magistrates
§ 5:11	Probable cause required for issuance of search warrant—General
§ 5:12	—Observation of affiant who is officer, victim, or private citizen
§ 5:13	—Observation of officer, victim, or private citizen not appearing before magistrate
§ 5:14	—Observation of "informer" not appearing before magistrate
§ 5:15	—Time; staleness
\$ 5:16	—Description of place and person to be searched
§ 5:17	—Reason for searching place and person
§ 5:18	—Person or thing to be seized
§ 5:19	Issuance of search warrant; form of warrant
§ 5:20	Execution of search warrant—General
\$ 5:21	Who may search?
\$ 5:22	Execution of search warrant—Knock and announce
\$ 5:23	—Area to be searched—Curtilage
\$ 5:24	—Purpose of search
\$ 5:25	—Detention and search of person present
§ 5:26	—Property which may be seized—General
§ 5:27	— — Obscene material
\$ 5:28	Return by officer
\$ 5:29	Warrantless searches—General
§ 5:30	—Incident to lawful arrest—Person
§ 5:31	— —Articles and area around person arrested
\$ 5:32	——Cell phones and personal computers
\$ 5:33	—Exigent circumstances
§ 5:34	—Community caretaking exception
\$ 5:35	—Officer in hot pursuit
\$ 5:36	—Valid consent—Voluntariness
\$ 5:37	——Scope of consent
\$ 5:38	—Valid consent by third person
\$ 5:39	—Airports, courthouses, and other sensitive facilities
\$ 5:40	—Places of recreation and entertainment
\$ 5:41	—Abandoned property
\$ 5:42	—Plain view—General
\$ 5:43	——Inadvertent discovery

§ 5:44	 —Right of officers to be where they were at time of discovery 	
§ 5:45	v	
§ 5:46		
§ 5:47	—Jails, prisons, probationers, and inmates	
§ 5:48	—Border searches	
§ 5:49	—Administrative searches	
§ 5:50	—Vehicles—Overview of some United States Supreme	
8 0.00	Court cases	
§ 5:51		
§ 5:52		
	— Probable cause—General	
	——Circumstances not amounting to probable cause	
	——Circumstances amounting to probable cause	
	——Nature of search permitted	
§ 5:57		
§ 5:58	-	
§ 5:59	——Inventory search after impound, put in storage, or	
3 0.00	condemned	
§ 5:60	Scope and intensity of search	
§ 5:61	Second search	
§ 5:62	Electronic surveillance—General	
§ 5:63	Results of illegal search	
§ 5:64	Sexual assault investigations	
§ 5:65	Verification of immigration status	
СНА	PTER 6. CONFESSIONS AND	
	F-INCRIMINATION	383
§ 6:1	Confessions—Definition	000
§ 6:2		
§ 6:3	Admissibility—General	
§ 6:4	—Voluntariness—General	
§ 6:5	— Hope of benefit	
§ 6:6	— — Fear of injury	
§ 6:7	— — Tear of figury — — Trickery	
	· · · · · · · · · · · · · · · · · · ·	
§ 6:8	—Confession of juvenile	
§ 6:9	—Garrity and statements of public employees	
§ 6:10	—Massiah and Escobedo—Pre- <i>Miranda</i> theories based on the Sixth Amendment	
§ 6:11	—Right to counsel—The confusing relationship	
-	between the Fifth and Sixth Amendments	
§ 6:12	Confessions and admissions— <i>Miranda v. Arizona</i> — General	
§ 6:13	— —Custody	
2 0.10	Custouy	

§ 6:14	— —Interrogation	
§ 6:15	— —Warnings	
§ 6:16	———Right to remain silent	
§ 6:17	———Use in court of any statements	
§ 6:18	— — Right to have counsel present	
§ 6:19	— — Right to have counsel appointed	
§ 6:20	— —Waiver—Right to remain silent	
§ 6:21	———Right to counsel	
§ 6:22	Silence; tacit admissions; failure to come forward	
§ 6:23	Statements by hearing-impaired suspects	
§ 6:24	Nontestimonial evidence—Under United States Constitution	
§ 6:25	—Under Georgia Constitution and Georgia law	
§ 6:26	Statutes requiring incriminating acts	
§ 6:27	Officers requiring incriminating acts	
§ 6:28	Results of illegally obtained evidence	
СНА	RELATIONSHIP AND PROCEEDINGS PRIOR TO COMMITMENT HEARING PTER 7. PRE-TRIAL	
IDE	NTIFICATION	485
§ 7:1	Scope	100
§ 7:2	Eyewitness identification—Background	
§ 7:3	Overview of some United States Supreme Court cases on eyewitness identification	
§ 7:4	Lineups	
§ 7:5	Showups	
§ 7:6	Photo identification	
§ 7:7	Presence of counsel	
§ 7:8	Due process standard	
§ 7:9	Motions for lineups	
§ 7:10	Admissibility of in-court identification testimony at trial	
§ 7:11	Hearing on motion to suppress identification testimony	
§ 7:12	Voice identification	
CHA	voice identification	
	PTER 8. COUNSEL FOR	
DEF		525

§ 8:2	Appointment of counsel	
§ 8:3	Waiver of counsel—Express waiver	
§ 8:4	—Functional waiver	
§ 8:5	Right to counsel of choice	
§ 8:6	Standby counsel	
§ 8:7	Hybrid representation	
§ 8:8	Ineffective assistance of counsel—General principles	
§ 8:9	—Deficient performance	
§ 8:10	—Prejudice	
§ 8:11	—Prejudice presumed	
§ 8:12	—Procedure	
§ 8:13	—Trial counsel	
§ 8:14	—Plea counsel	
§ 8:15	—Appellate counsel	
§ 8:16	Telephone call from defendant in custody	
§ 8:17	The initial interview	
§ 8:18	Contract of employment	
§ 8:19	Appearance and withdrawal of counsel	
§ 8:20	Conflicts of interest	
§ 8:21	Disqualification and removal of counsel	
§ 8:22	End of representation	
CH	APTER 9. BONDS	613
§ 9:1	General considerations	
§ 9:2	Posting bond as waiver of commitment hearing	
§ 9:3	Setting of bond, generally; denial of bond; review	
§ 9:4	Motion to fix or modify bond	
§ 9:5	Amount of monetary bond	
§ 9:6	Special conditions of bond	
§ 9:7	Modification and revocation of bond	
CH	APTER 10. CIVIL ACTIONS RELATED	
TO	THE DEFENSE OF CRIMINAL	
	SES	629
§ 10:1		
§ 10:2	·	
§ 10:3		

PART III. PRE-TRIAL JUDICIAL PROCEEDINGS

CHA	PTER 11. CONDEMNATIONS AND	
FOR	FEITURES	637
§ 11:1	Background	
§ 11:2	General principles and statutes providing for condemnation, forfeiture, confiscation, and disposition or return of personal property in custody of law enforcement	
§ 11:3	Uniform forfeiture procedure	
§ 11:4	Forfeiture of weapons	
§ 11:5	Forfeitures relating to beverage alcohol	
§ 11:6	Forfeitures relating to drugs	
§ 11:7	Civil disabilities	
§ 11:8	Restoration of civil rights	
§ 11:9	May a person convicted of a felony serve on a trial jury?	
	PTER 12. PRE-INDICTMENT	
PRO	CEEDINGS	673
§ 12:1	First appearance	
§ 12:2	General considerations of probable cause hearing	
§ 12:3	The rule on commitment hearings by a court of inquiry	
§ 12:4	Outline of statutory procedure of probable cause hearing	
§ 12:5	Failure to have probable cause hearing at which defendant is represented by counsel	
§ 12:6	Dismissal or bind over from probable cause hearing	
§ 12:7	Judicial review of probable cause hearing	
	PTER 13. GRAND JURY	687
§ 13:1	Introduction	
§ 13:2	Historical background	
§ 13:3	Compiling grand jury lists	
§ 13:4	Composition of grand jury list	
§ 13:5	Selecting a grand jury	
§ 13:6	Organizing the grand jury	
§ 13:7	Kinds of objections and challenges to grand jury	
§ 13:8	Timing of objections to grand jury and challenges to the array	
§ 13:9	Challenge to the array—Fair cross section requirement	

§ 13:1	0 —Randomness
§ 13:1	1 Grand jury secrecy
§ 13:1	2 Discovery of grand jury testimony
§ 13:1	
§ 13:1	
§ 13:1	
§ 13:1	
§ 13:1	7 Proceedings against officials and peace officers
§ 13:1	
§ 13:1	9 Witnesses subpoenaed to testify before grand jury
§ 13:2	
CHA	APTER 14. INDICTMENTS AND
ACC	CUSATIONS 733
§ 14:1	
§ 14:2	Background
§ 14:3	Formal parts
§ 14:4	Contents—Sufficiency; elements of offense
§ 14:5	—Classification of offense
§ 14:6	—Time
§ 14:7	—Place
§ 14:8	—Names of grand jurors
§ 14:9	—Name of defendant
§ 14:1	0 —Name of injured party
§ 14:1	1 —Description of stolen property
§ 14:1	2 Contents—Description of assault or weapon
§ 14:1	3 Contents—Exceptions
§ 14:1	
§ 14:1	e e
§ 14:1	
§ 14:1	<u> </u>
§ 14:1	
§ 14:1	
§ 14:2	0 Amendments
§ 14:2	1 Reindictments
§ 14:2	2 Waiver of indictment
§ 14:2	3 Accusations
§ 14:2	4 Guilty pleas on accusations
§ 14:2	
§ 14:2	
§ 14:2	-
§ 14:2	· ·
§ 14:2	
	- Corporations

TABLE OF CONTENTS

§ 14:30	Conspiracy—General
	—Substantive aspects
§ 14:32	—Procedural aspects
	ΓER 15. PRE-TRIAL PLEAS,
	RRERS, NOTICES, DEMANDS, AND
MOTIO	DNS 793
§ 15:1	General considerations
§ 15:2	Time of filing
§ 15:3	Hearings
§ 15:4	Discovery—General
§ 15:5	—Pre-trial examination and analysis of physical
	objects
§ 15:6	—Duty of state to preserve
§ 15:7	—Depositions in criminal cases
§ 15:8	—Notice to produce
§ 15:9	—Reciprocal discovery in felony cases—Bird's eye
_	view
§ 15:10	——Applicability of the statute
§ 15:11	 —Copy of indictment or accusation and list of witnesses furnished
§ 15:12	——Statements attributable to defendant
§ 15:13	— — Criminal history of defendant
§ 15:14	——Examination of pictures, documents and
	tangible evidence
§ 15:15	——Results of examinations and tests
§ 15:16	——Crime lab reports
§ 15:17	———Additional evidence discovered
§ 15:18	— —Threat of physical or economic harm
§ 15:19	——Alibi witnesses
§ 15:20	——Failure to comply
§ 15:21	——Statements of witnesses
§ 15:22	 — Lists of names and information concerning witnesses
§ 15:23	——Reimbursement of costs
§ 15:24	— —Material or information already furnished; who may be called as witness?
§ 15:25	——Pre-sentence evidence
§ 15:26	Facts underlying expert opinion
§ 15:27	Other statutory discovery, misdemeanor cases
§ 15:28	—Copy of indictment or accusation
§ 15:29	—Witness lists
§ 15:30	—Defendant's statements
§ 15:31	—Scientific reports
-	*

8 1 5 00	T)
§ 15:32	Discovery in juvenile court
§ 15:33	Discovery—By prosecution
§ 15:34	—Brady motion—Background
§ 15:35	——Discoverable material
§ 15:36	——Application of the rule
§ 15:37	——In camera inspection
§ 15:38	——Information known only to police
§ 15:39	——Discovery of informer
§ 15:40	Motion for funds for expert witnesses and investigators
§ 15:41	Dismissal by trial court
§ 15:42	Demurrers
§ 15:43	—General demurrers
§ 15:44	—Special demurrers
§ 15:45	Challenge to constitutionality of statute; vagueness
§ 15:46	Pleas
§ 15:47	Plea in abatement
§ 15:48	—Defective grand jury
§ 15:49	-Misnomer
§ 15.45 § 15:50	Plea in bar
§ 15.50 § 15:51	Right to travel
§ 15.51 § 15:52	Double jeopardy
•	
§ 15:53	—Some situations not constituting double jeopardy
§ 15:54	—Necessity of plea
§ 15:55	—Requirements of plea
§ 15:56	—When jeopardy attaches
§ 15:57	—Lesser included offense
§ 15:58	—Same offense—General
§ 15:59	—Procedural aspects—Multiple prosecutions for same conduct
§ 15:60	——Prosecution barred by former prosecution
§ 15:61	—Same offense—Substantive aspects
§ 15:62	—Collateral estoppel
§ 15:63	—Mistrial—New trial
§ 15:64	—Dual sovereignty
§ 15:65	—Trial in an inferior court
§ 15:66	—Retrial following reversed conviction
§ 15:67	—Sentencing
§ 15:68	Retroactive application of penal statutes—Ex post
ζ 13.00	facto
§ 15:69	Retroactive application of new rules of criminal law
§ 15:70	Quashing second indictment as barring further
8 15.71	prosecution Statute of limitations
§ 15:71	Statute of limitations

TABLE OF CONTENTS

§ 15:72	Statutory demand for speedy trial—Non-capital offenses
§ 15:73	—Capital cases
§ 15:74	Demand for trial by prison inmate—General
§ 15:75	Constitutional right to speedy trial
§ 15:76	Interstate Agreement on Detainers
§ 15:77	Motion to sever—Parties
§ 15:78	—Offenses
§ 15:79	Motion to change venue—Background and statutory
9	procedure
§ 15:80	Right of trial judge to change venue because of danger
§ 15:81	Motion to change venue—Practical and legal
9	suggestions
§ 15:82	Motion to recuse judge
§ 15:83	Motion to suppress—General
§ 15:84	—Illegally obtained tangible evidence—Expectation
	of privacy or standing—General
§ 15:85	——Burden of proving standing
§ 15:86	——Supreme Court rulings on standing
§ 15:87	— — Criteria for determining expectation of privacy
§ 15:88	——Examples of expectation of privacy
§ 15:89	——Requirements of the motion
§ 15:90	——Hearing on motion
§ 15:91	——Identity of informer
§ 15:92	——False affidavit for search warrant
§ 15:93	— —Judicial review and binding effect of order
§ 15:94	——Collateral estoppel
§ 15:95	Reclaiming non-contraband items
§ 15:96	Motion to transfer to federal court
§ 15:97	Incompetence to stand trial—General principles
§ 15:98	Special plea of mental incompetency to stand trial—
0	The trial
§ 15:99	—Confinement by Department of Behavioral Health
	and Developmental Disabilities
§ 15:100	Uniform Act to secure the attendance of witnesses
	from without the state
§ 15:101	Oral motion
§ 15:102	Rulings, orders, decisions of trial judge
§ 15:103	Status conferences and scheduling orders
§ 15:104	Interlocutory appeals
§ 15:105	Intervention
§ 15:106	Video conference hearings
	-
CHAP	ΓER 16. PLEA BARGAINING
	eneral

1119

§ 16:2	Legal aspects	
§ 16:3	Prosecutorial vindictiveness	
§ 16:4	Practice of plea bargaining	
§ 16:5	The ten commandments of defense plea bargaining	
§ 16:6	Pretrial diversion	
PAR	T IV. THE TRIAL	
CHA	PTER 17. ARRAIGNMENT	1133
§ 17:1	Background	1100
§ 17:2		
§ 17:3	<i>v</i> 1	
§ 17:4		
§ 17:5	—Competence	
§ 17:6	—Factual basis	
§ 17:7	—Elements of crime	
§ 17:8	—Freely and voluntarily entered	
§ 17:9	—Waivers of defendant	
§ 17:10	—North Carolina v. Alford	
§ 17:11	—Appeal	
§ 17:12	Entering a nolo contendere plea	
§ 17:13	Withdrawal of guilty plea under state law	
§ 17:14	Withdrawal of guilty plea on federal constitutional	
	grounds	
	Volume 2	
	V 01011110 =	
CHA	PTER 18. PRELIMINARY MATTERS	
AND	GENERAL REQUIREMENTS	1
§ 18:1	,	
§ 18:2	process —Public trial and free press	
	—Fublic trial and free press —Electronic and photographic coverage of	
8 10.5	proceedings	
§ 18:4	—Fair trial and the right of parties and attorneys to	
3 10.4	comment	
§ 18:5	The judge	
§ 18:6	The judge—Judicial comment	
§ 18:7	The district attorney	
§ 18:8		
§ 18:9		
§ 18:10		
	r	

TABLE OF CONTENTS

§ 18:11	— —Jury views	
§ 18:12	—Physical confrontation of witnesses	
§ 18:13	Restraints and courtroom security	
§ 18:14	The transcript	
§ 18:15	Subpoenas—General	
§ 18:16	Subpoena for the production of documentary evidence and tangible objects	
§ 18:17		
§ 18:18		
§ 18:19	•	
§ 18:20		
§ 18:21		
§ 18:22	* *	
§ 18:23		
§ 18:24		
§ 18:25		
§ 18:26		
§ 18:27		
§ 18:28		
§ 18:29	Notice to defense of evidence in extenuation, mitigation and aggravation of punishment	
§ 18:30	Bifurcation of trial	
§ 18:31	Mistrial	
СНА	PTER 19. THE JURY	105
§ 19:1	Right to jury trial	100
§ 19:2	Jurors drawn to serve	
§ 19:3	Investigation of potential jurors	
§ 19:4	Juror orientation and custody before being called for a case	
§ 19:5	Jury bailiffs	
§ 19:6	Transcript of jury voir dire	
§ 19:7	Call of jurors for particular case	
§ 19:8	Putting the panel on the defendant	
§ 19:9	Location of potential jurors during voir dire	
§ 19:10		
§ 19:11	•	
§ 19:12	-	
§ 19:13	· ·	
§ 19:14	_	
§ 19:15		
5	cases	
§ 19:16	—Death cases	
§ 19:17	—General	

§ 19:18		
§ 19:19	for judge to overrule challenge —Situations where it has been held challenges were	
8 13.13	proper	
§ 19:20		
§ 19:21	•	
§ 19:22	-	
§ 19:23	Rehabilitating a juror	
§ 19:24	Voir dire examination—Examples of questions which it has been held that trial judge may refuse to permit	
§ 19:25	-	
§ 19:26	· ·	
§ 19:27	-	
§ 19:28	Peremptory challenges: limitations; <i>Batson v. Kentucky</i>	
§ 19:29	Batson challenges—Step 1: prima facie showing	
§ 19:30		
§ 19:31	—Step 3: the court's determination	
§ 19:32		
§ 19:33	ů ů	
§ 19:34		
§ 19:35	Swearing a jury—The oath	
§ 19:36	Alternate jurors	
§ 19:37	Pre-trial instructions	
§ 19:38	Sequestration of jury	
§ 19:39	Improper influence or conduct	
§ 19:40	—Juror note-taking	
	PTER 20. OPENING	
		219
§ 20:1	General considerations	
§ 20:2	Purpose of opening statement	
§ 20:3	State's opening	
§ 20:4	Defendant's opening	
	PTER 21. PRESENTING THE STATE'S	
		225
§ 21:1	Presumption of innocence	
§ 21:2	Presumptions and inferences—General	
§ 21:3	—Examples—General	
§ 21:4	Jurisdiction and venue	

\$ 21:5 \$ 21:6 \$ 21:7 \$ 21:8 \$ 21:9 \$ 21:10	General requirements of proof—Variance Jackson-Denno hearings Evidence and objections Interpreters Resting the state's case Continuances during course of trial	
_	TER 22. PRESENTING THE ENDANT'S CASE AND ATTACKS	
_	REON	259
§ 22:1	Motion for directed verdict of acquittal	
§ 22:2	General consideration of defendant's case	
§ 22:3 § 22:4	The defendant as a witness Attempt as a defense	
§ 22.4 § 22:5	Abandonment as a defense	
§ 22:6	Impossibility as a defense	
§ 22:7	Mistake of fact as a defense	
§ 22:8	Mere presence and mere association as defenses	
§ 22:9	Alibi as a defense	
§ 22:10	Age as a defense—General	
§ 22:11	Good character as a defense	
§ 22:12	Insanity as a defense—Notice and procedure	
§ 22:13	—General	
§ 22:14	-Evidence, presumptions, and burden of proof	
§ 22:15	—Jury instructions	
§ 22:16	—Georgia's statutory procedure for release when defendant is found not guilty by reason of insanity at the time of the crime	
§ 22:17	—Constitutional considerations relating to the release of a defendant who has been found not guilty by reason of insanity at the time of the crime	
§ 22:18	 Release of defendant found guilty but mentally ill or guilty but with intellectual disability 	
§ 22:19	Intoxication as a defense	
§ 22:20	Immunity from prosecution	
§ 22:21	Affirmative defenses—Generally	
§ 22:22	—Self-defense	
§ 22:23	—Mutual combat	
§ 22:24	—Habitation	
§ 22:25	—Justification and excuse	
§ 22:26	—Accident	
§ 22:27	—Battered person syndrome	
§ 22:28	—Theft cases	
§ 22:29	—Coercion	

§ 22:30	—Entrapment	
§ 22:31	Defenses—Miscellaneous—Defendant as agent of or	
	conduit between government informer or officer	
$\S~22{:}32$		
	of unlawful substance cases	
§ 22:33	——Selective prosecution	
§ 22:34	1 1 0	
§ 22:35	e •	
$\S~22{:}36$	— — Proximate cause	
§ 22:37	——Reverse sting operations	
CHA	PTER 23. REBUTTAL AND FURTHE	'D
	DENCE	_
		347
§ 23:1	Insanity—Testimony of court-appointed psychiatrist or psychologist	
§ 23:2	Calling witnesses by the court	
§ 23.2 § 23:3	· ·	
§ 23.3 § 23:4	· ·	
§ 23:4 § 23:5		
§ 23:6	<u>-</u>	
8 25:0	Reopening the case	
CHA	PTER 24. ARGUMENT	355
§ 24:1	General considerations	
§ 24:2	Opening argument and concluding argument	
§ 24:3	Time limit on argument	
§ 24:4	Reading law	
§ 24:5	Scope of argument—General (background)	
§ 24:6	—Possibility of clemency, probation, parole, pardon—	
Ü	Mandatory mistrial	
§ 24:7	—Prosecutor—Permissible scope	
§ 24:8	—Limitations on prosecutor's argument	
§ 24:9	—Limitations on defense counsel's argument	
CITA		TO.
	PTER 25. SUBMITTING THE CASE	
	JURY	385
§ 25:1	1 0	
§ 25:2	Charge—General	
§ 25:3	—Instructions relating to evidence	
§ 25:4	—Instructions defining offense charged	
§ 25:5	—Lesser included offenses	
§ 25:6	—Lesser-included offenses—When predicate of felony	
	murder; murder in the second degree	
§ 25:7	—Different counts and/or different defendants	
§ 25:8	—Instructions related to deliberations and verdict	

§ 25:9	—Matters that must be charged	
§ 25:10	—Matters which do not have to be charged	
§ 25:11	—Matters that cannot be charged	
§ 25:12	Sequential charges	
§ 25:13	Charge—Defenses	
§ 25:14	—Errors requiring reversal	
§ 25:15	Custody, conduct, and deliberations of jury	
§ 25:16	Alternate jurors during deliberations	
§ 25:17	Objections to charge	
§ 25:18	Right of counsel to further argument	
§ 25:19	Sending the indictment and the evidence to jury room	
§ 25:20	Communicating with the jury	
§ 25:21	Rehearing or reviewing evidence during deliberations	
§ 25:22	Recharge	
§ 25:23	Jury misconduct	
§ 25:24	Replacement of juror	
§ 25:25	Change of jury foreman	
§ 25:26	The Allen charge	
§ 25:27	Mistrial based on hung jury	
CHAI	PTER 26. THE VERDICT	453
§ 26:1	Background	
§ 26:2	Mechanics related to verdicts	
§ 26:3	Multiple count indictment	
§ 26:4	Polling the jury	
§ 26:5	Bifurcated trials	
§ 26:6	Inconsistent verdicts	
§ 26:7	Mutually exclusive verdicts	
§ 26:8	Repugnant verdicts	
§ 26:9	Impeaching the verdict	
§ 26:10	Amending the verdict	
§ 26:11	Interviewing jurors	
§ 26:12	Recalling jury and giving further instructions after	
	conviction	
CHAI	PTER 27. SENTENCING	481
	General	101
§ 27:2	Cruel or unusual punishment	
§ 27:3	Due process	
§ 27:4	Equal protection	
§ 27:5	Pre-sentence hearings—Victim impact statements	
§ 27:6	Capital cases—General	
§ 27:7	Capital cases with jury—Overview	
§ 27:8	The pre-sentence hearing—Evidence	
x 41.0	— The pre-semence hearing—Evidence	

§ 27:9	——Procedure
§ 27:10	— —Jury instructions
§ 27:11	——Aggravating circumstances
§ 27:12	Capital cases—Without jury
§ 27:13	Pre-sentence hearing in non-capital cases—General
§ 27:14	—Evidence
§ 27:15	Fines
§ 27:16	Payment of costs of prosecution and indigent representation
§ 27:17	Terms and conditions
§ 27:18	Probation and suspended sentences—General
§ 27:19	—Terms and conditions
§ 27:20	Probation—"Special alternative incarceration— Probation boot camp"
§ 27:21	Restitution
§ 27:22	Alternatives to institutional incarceration
§ 27:23	Youthful offenders
§ 27:24	Accountability courts
§ 27:25	First Offender Act and other conditional discharge provisions
§ 27:26	Special conditions
§ 27:27	—Sexual offenders
§ 27:28	—Felon in possession of firearms
§ 27:29	Recidivist punishment
§ 27:30	Sentencing of serious violent felonies
§ 27:31	Concurrent and consecutive sentences
§ 27:32	Sentencing on multiple counts or indictments— Merger
§ 27:33	—Included offenses
§ 27:34	—Multiple counts of the same offense: unit of prosecution
§ 27:35	Merger—Assaults, batteries, and child cruelty
§ 27:36	—Conspiracy
§ 27:37	—Controlled substances and other contraband
§ 27:38	—DUI, vehicular homicide, and other traffic-related offenses
§ 27:39	—Firearms and weapons offenses
§ 27:40	—Fraud and other false statements
§ 27:41	—Gang offenses
§ 27:42	—Homicide
§ 27:43	—Kidnapping and false imprisonment
§ 27:44	—Obstruction and other offenses against public
	administration
§ 27:45	—Property damage offenses
$\S 27:46$	—RICO

§ 27:47	—Sexual offenses generally	
$\S~27{:}48$	—Sexual offenses involving children	
$\S 27:49$	—Theft, robbery, and burglary	
$\S 27:50$	Rule of lenity	
$\S 27:51$	Re-sentencing; vindictiveness	
$\S 27:52$	Practical defense considerations for pre-sentence	
	hearings and sentencing	
§ 27:53	<u> </u>	
§ 27:54	The sentencing itself	
§ 27:55	Computation of time served and good time credit	
§ 27:56	±	
§ 27:57	Motion for reduction or correction of sentence—	
	Felony cases	
§ 27:58		
§ 27:59		
§ 27:60	Offenses by trafficking victims: petitions to vacate	
PAR	T V. POST-TRIAL REMEDIES	
	AND PROBATION REVOCATION	Ī
CHA	PTER 28. CONTEMPT	667
§ 28:1	General	
§ 28:2	What constitutes contempt?	
§ 28:3	What constitutes contempt? examples of	
	noncontemptuous conduct	
§ 28:4	Procedure—General	
§ 28:5	—Direct contempt	
§ 28:6	—contempt by attorneys	
§ 28:7	—Indirect or constructive contempt	
§ 28:8	Appeals	
CHA	PTER 29. JUDICIAL REVIEW	687
§ 29:1	Scope	
§ 29:2	Right to appeal—Defendant	
§ 29:3	— —Forfeiture and waiver of right to appeal	
§ 29:4	—Defendant—Out-of-time appeal	
§ 29:5	—State	
§ 29:6	Right of defendant to be released on bond pending	
3 =0.0	appeal	
§ 29:7	Indigent appellants—Right to counsel	
§ 29:8	—Right to transcripts	
§ 29:9	Appellate review—Sufficiency of the evidence	
§ 29:10	Preservation of error; plain error	
3 40.10	1 10001 validii di cirdi, piaili cirdi	

§ 29:11	Motion for judgment notwithstanding mistrial or verdict	
§ 29:12	Motion for new trial	
§ 29:13		
§ 29:14	Notice of appeal	
§ 29:15	Record on appeal	
§ 29:16	Motion in arrest of judgment	
§ 29:17	Motion to set judgment aside	
§ 29:18	Motion to vacate void sentence	
§ 29:19	Coram nobis	
§ 29:20	Jurisdiction of trial court during appeal	
§ 29:21	Post-conviction DNA testing	
§ 29:22	Petition to release insolvent	
§ 29:23	State habeas corpus	
§ 29:24	State habeas corpus proceedings in death sentence cases	
§ 29:25	Federal habeas corpus	
§ 29:26	Habeas corpus—Right to counsel for indigent petitioners	
§ 29:27	Unified appeal in capital cases—Statutory basis	
§ 29:28	—Overview	
§ 29:29	Inmates' actions against state and local governments and government agencies and officers	
	PTER 30. ADMINISTRATIVE	
REV	IEW	775
§ 30:1		
§ 30:2	Credit for pre-trial custody	
§ 30:3	Earned time allowances	
§ 30:4	Review by board of pardons and paroles	
§ 30:5	Conditions of parole; revocation of parole or release	
CITA	DEED OF DECEMENT	
	PTER 31. PROBATION	
	OCATION	783
§ 31:1	Introduction—General	
§ 31:2	Violation of conditions	
§ 31:3	Arrest or detention	
\$ 91.4		
§ 31:4	Preliminary hearing	
§ 31:4 § 31:5	Preliminary hearing Final revocation hearing—General	
_		
§ 31:5	Final revocation hearing—General	

CHAI	PTE	R 32. CRIME VICTIMS' BILL OF	
RIGH	ITS.		807
§ 32:1	Backg	ground	
§ 32:2	Notice	e of events	
§ 32:3	Inform	mation about process and programs	
§ 32:4	Partic	cipation by victim	
§ 32:5	Confi	dentiality	
APPE	END	ICES	
Appendi	x A.	Lesser Included Offenses	813
Appendi	хВ.	Recidivist Punishment under O.C.G.A. § 17-10-7	000
Appendi	хС.	Plea Litany Checklist	823
			829
Table o	f Law	s and Rules	
Table o	f Case	es	
Index			