

Preface to the First Edition

In a world where “to make a federal case” out of something is simply to treat it seriously, writing a Federal Criminal Law casebook is asking for trouble. In a pathetic attempt to deflect criticism, we begin by admitting that this book reflects a great many contestable decisions about coverage and focus. Our goal is less to create a canon of federal criminal cases and statutes than to frame federal criminal law in the United States as a distinctive (albeit multifaceted) project created and shaped by the interplay among the three branches of the federal government (Congress, the courts, and the executive) and by institutional dynamics within the branches—between lower courts and the Supreme Court, and within the historically (but variably) decentralized Department of Justice.

In so framing our project, we have given short shrift to certain parts of the federal criminal docket (however large) that reflect policies (or policy incoherence) transcending criminal enforcement decision making; there is little here about offenses relating to immigration, securities, and income taxation. We have largely ceded these territories to other courses not because they are unimportant, but because they are too important to be dealt with in a drive-by fashion. At the same time, we have chosen not to restrict our focus to quintessentially “white collar” crimes that play an outsized role in perceptions of the federal “brand.” Any such focus, we believe, risks missing the connections between white collar crimes and other crimes—violent crime, terrorism, civil rights offenses, narcotics trafficking—in the federal criminal docket. Judges, prosecutors, defense lawyers, and Congress think across all these categories when shaping federal criminal law, and so should students.

This is not a comprehensive treatise but the extension of a conversation about Federal Criminal Law we have been having for many years among ourselves and with our students. And we are truly grateful to the many students at Columbia, Yale, and Harvard who, since 2007, have used and commented on earlier drafts. While we have had many research assistants over the years, special thanks are due to Columbia students David Abramowicz, Matt Jasili, Adam Carlis, Elizabeth Moulton, Michael Barnett, Maren Messing, Jeffrey

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Our greatest debt is to our co-author at Harvard, Bill Stuntz, who died in 2011. We miss Bill desperately. But we hope the creative and incisive sweep of Bill's mind, as well as his sense of humor and his appreciation of irony, still permeate this book. To lose any part of Bill's voice would only add to the tragedy of his untimely death.

Thanks to Alexandra Bowie for putting up with Danny's whining about this project, and to José Cabranes for his persistent question: "Do you have a publication date yet?" We are also grateful to Ruth Stuntz for all her support.

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