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FIFTH EDITION

The Criminal Process

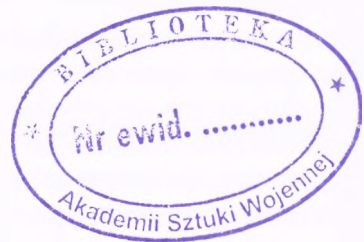
Liz Campbell
Andrew Ashworth
Mike Redmayne

THE CRIMINAL PROCESS

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Fifth Edition

LIZ CAMPBELL
ANDREW ASHWORTH
MIKE REDMAYNE



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PREFACE

The fourth edition of *The Criminal Process* was published in 2010. The plan was that Mike Redmayne would take charge of the fifth edition, either alone or with a new co-author. Tragically, Mike died in 2015 after a brave battle with cancer. The loss of such an outstanding scholar—see his monograph on *Character in the Criminal Trial*, published in 2015 just before his death—has been widely felt. But the book should live on, and I am delighted that Professor Liz Campbell accepted the invitation to prepare the fifth edition. She brings to the task a wide range of expertise and understanding, and I am confident that this edition will be welcomed by scholars and students alike.

Andrew Ashworth

December 2018

It was a bittersweet privilege to be asked by Andrew Ashworth to take over the fifth edition of *The Criminal Process*. I have tried to honour Mike Redmayne's legacy and memory in my approach, as well as seeking to complement the remarkable contribution that Andrew has made and continues to make to criminal law scholarship. I can only hope that I do them both justice.

In the eight years since the fourth edition, the pace of change in the criminal process has continued to be rapid, both in a legislative and policy sense. The Criminal Procedure Rules play a central and ever-strengthening role; issues relating to disclosure of evidence have led to talks of crises in criminal justice, while legal aid cuts continue to bite. In addition, the prospect of the UK's departure from the EU and the lack of clarity as to the parameters and meanings of 'Brexit' have resulted in a great degree of political and legal uncertainty, neither of which look likely to be resolved soon. Moreover, despite political rhetoric and commitments to the contrary, human rights still play a significant role in the criminal process, and throughout the book we continue to place considerable emphasis on European human rights law. As well as developments relating to the confrontation and protection of witnesses, since the last edition legislative change has been prompted by a significant decision from Strasbourg relating to the retention of DNA profiles, for instance.

The aim of the book remains that of providing a reflective, contextualized consideration of doctrinal, practical, and normative issues in criminal processes and procedures, drawing on arguments from the law, research, policy, and principle. It focuses on England and Wales, with occasional comparative references. Rather than being an exhaustive account of the criminal process, it subjects a range of key issues to deeper examination than would be possible were the book to aim for wider coverage. Its primary focus is on the impact of the criminal process on the individual, although some consideration is also given to the corporate suspect.

The structure remains broadly similar to that of previous editions. The book opens with a chapter setting out the context for recent changes to the English criminal process. A theoretical framework is advanced in Chapter 2. This chapter centres on the European Convention on Human Rights, and seeks to develop a human rights approach to resolving issues in the criminal process. Chapter 3 focuses on the occupational cultures of criminal justice professionals and on questions of legal ethics that arise at various stages. The book then goes on to deal with ten key issues in the criminal process, integrating and commenting upon developments in law and practice. The order of Chapters 4 and 5 has been reversed, so as to consider evidence collection more broadly before police questioning. Chapter 4 analyses the powers and practices in relation to the investigation of crime and the gathering of evidence. This is followed in Chapter 5 with an examination of the questioning stage of the criminal process, looking at the role and powers of the police. Chapter 6 focuses on the decision as to whether a suspect should be prosecuted or diverted from the formal criminal process, and looks at the range of out-of-court disposals and the implications of deploying these. Then Chapter 7 looks at cases that are charged and subjected to prosecutorial review, and includes detailed consideration of the functions and performance of the Crown Prosecution Service. In Chapter 8, remand decisions are analysed, scrutinizing the justifications for removing liberty before trial. Chapter 9 reviews a number of pre-trial rights and duties, including particularly contentious issues such as the disclosure of evidence. In Chapter 10, the laws and practice on plea negotiation are explored. Chapter 11 turns to the criminal trial itself, raising questions about the roles of judge and jury. Chapter 12 examines the appeals system and the possibility of post-conviction review of cases, and Chapter 13 scrutinizes the development and subsequent amendment of civil preventive orders.

The writing of the text was completed in late November 2018, and I hope to have taken into account major legal and policy changes up to then.

Liz Campbell
Melbourne, December 2018

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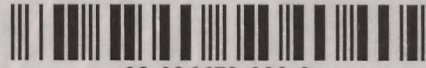
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The Criminal Process offers an insightful and stimulating analysis of the key issues in criminal process and procedure, drawing on arguments from the law, research, policy, and principle to present an authoritative overview of this area of study.

NEW TO THIS EDITION

- Coverage of the issues relating to disclosure in criminal proceedings
- An increased focus on corporate suspects, including analysis of deferred prosecution agreements
- Consideration of recent changes to stop and search policies and practices, and to police bail

Liz Campbell is the Francine V McNiff Chair of Criminal Jurisprudence at Monash University.

Andrew Ashworth is Emeritus Vinerian Professor of English Law at the University of Oxford, and Emeritus Fellow of All Souls College.

The late **Mike Redmayne** was Professor of Law at the London School of Economics and Political Science.

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