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PREFACE

Four editions of *Basic Criminal Practice* became *The Criminal Practice Handbook* in 1991. I reviewed it. Supplements later, it became *New York Criminal Practice, Second Edition*. Seventeen years and counting, it is now *New York Criminal Practice, Fifth Edition*.

This book is for the inexperienced as well as the veteran. Its text is rooted in precedent as supplemented by the experience of its authors who have practiced what they now teach. *Clinical accuracy is the standard of the text*. To the best of human capability the book speaks to what *is*, not to that which philosophy or cause might enjoy hearing. Each chapter presents a whole picture exhaustively cited. Written for lawyers and judges—even laymen—who wish to be as effective as they are ethical, *New York Criminal Practice* is for those who want to know what he or she is doing and why they are doing it.

It has been 19 years that I have been monitoring the case law and statutes to flesh out this Fifth Edition which is the embodiment of numerous supplements coupled now with additional legal topics. On behalf of the New York State Bar Association, I thank all those members of the judiciary, as well as the defense and prosecution bar, who contributed hours to read and root out errors small and large which may have escaped our nets. Like everything else in life, this has been a human endeavor. I am very appreciative of the efforts, patience and forbearance of the NYSBA's Continuing Legal Education Department's staff in publishing this book.

One last note. It's difficult to write about an individual, who may be either male or female, while avoiding a repetitiously annoying and awkward "he/she" or "they." Such contrived language is contrary to principles of English grammar and good prose. Sometimes the chapters herein refer to individuals as "he" or "him" but, as is the rule already, such pronouns are to be understood as applying interchangeably to men and women. The book is long enough.

Lawrence N. Gray, Esq.
Editor-in-Chief

FOREWORD

New York Criminal Practice, Fifth Edition is for the office library and the courtroom. It is law and practice for the experienced and the newcomer. There are few, if any, margins of error where the civilized adjudication of truth is involved. Even harmless error is not entirely harmless. Our criminal justice system is never any better and never any worse than the people who serve it on any given day. Ours is a contentious profession. That's why it has rules. Good faith adherence to them assumes knowledge of them, both their theory and their implementation. Twelve years of effort have produced this edition.

Many thanks for splendid work, and patience with me, is extended to Dan McMahon, publications director; Leslie Scully, Dan McMahon's assistant; and copy editors Reyna Eisenstark, Alex Dickson, Kate Mostaccio, and Howard Healy.

The editor-in-chief pays heartfelt appreciation to Doctors John Franco, Regina Jablonski, Joan Dobbs, Thomas Harrington, Albert Riccio, Ekambaram Ilamathi, Colin Brathwaite, Alfred Lieffrig and Joanne Gray, who've kept the parts moving and engine running.

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Lawrence Gray is a former Special Assistant Attorney General in the trial and appellate section of the Attorney General's Medicaid Fraud Control Unit. He was previously a Special Assistant Attorney General in the Office of the Special State Prosecutor for the Investigation of the New York City Criminal Justice System; prior to that he was an Assistant Attorney General in the Bureau of Real Estate, Securities Fraud and Theatrical Syndications. He began his career as an Assistant District Attorney in Bronx County. Mr. Gray is a 1969 graduate of St. John's University School of Law, where he was an associate editor of the *St. John's Law Review*. His other publications include *Criminal and Civil Contempt*, Second Edition (NYSBA, 2012); *Evidentiary Privileges—Grand Jury, Criminal and Civil Trials*, Fifth Edition (NYSBA, 2012); *Contempt and the Courtroom* (NYSBA, 1996); *A Practice Commentary to Judiciary Law Article 19*, 1 *Cardozo Public Law, Policy & Ethics Journal* 61 (2003); *Criminal and Civil Contempt: Some Sense of a Hodgepodge*, 72 *St. John's Law Review* 337 (1998); and *Judiciary and Penal Law Contempt in New York: A Critical Analysis*, *Brooklyn Law School Journal of Law and Policy*, Vol. III, No. 1 (1994). He continues practicing law by representing indigent criminal defendants pro bono.

