

Criminal Law

2026 EDITION



Written By:
A. Kevin Kennedy, Esq.

Table of Contents

About the Author	xi
DISCLAIMER	xii
Common Law Offenses	1-1
Affray.....	1-2
Criminal Contempt.....	1-3
Escape from a Police Officer.....	1-4
Interference with a Police Officer	1-5
Resisting Arrest	1-6
Solicitation to Commit a Felony	1-6
Obstruction of Justice	1-7
Forgery	1-7
Uttering.....	1-8
Murder & Manslaughter	2-1
First Degree Murder	2-1
Second Degree Murder	2-8
Attempt to Murder.....	2-9
Manslaughter	2-11
Manslaughter while Operating Under the Influence	2-15
Assault & Battery Offenses	3-1
Assault	3-1
Assault & Battery.....	3-12
Causing Injury to a Firefighter.....	3-37
Mayhem.....	3-38

Strangulation or Suffocation	3-40
Sexual Assault Offenses	4-1
Indecent Assault & Battery	4-1
Rape	4-15
Assault with Intent to Commit Rape	4-32
Human Trafficking: Sexual Servitude	4-35
Robbery Offenses	5-1
Robbery	5-1
Unarmed Assault with Intent to Rob	5-7
Stealing by Confining or Putting in Fear	5-8
Carjacking	5-9
Abandonment, Endangerment & Kidnapping	6-1
Abandonment of a Child under 10	6-1
Reckless Endangerment of a Child	6-3
Kidnapping	6-6
Custodial Interference by Relatives	6-12
Drug to Confine or Extort	6-14
Enticement of a Child under 16	6-15
Enticement of Child for Prostitution, Human Trafficking, or Commercial Sexual Activity	6-17
Human Trafficking – Sexual Servitude	6-18
Civil Rights Crimes	7-1
Civil Rights Violations	7-1
Assault & Battery Due to Protected Class Status	7-2
Threats, Stalking & Harassment	8-1
Threats	8-1
Bomb Threat & Terrorist Threats	8-4
Extortion by Threats	8-6

Intimidation Witness/Juror/Police/Court Official	8-8
Stalking	8-13
Criminal Harassment	8-17
Criminal Harassment - Distribution of Visual Material – (Revenge Porn)	8-18
Fire Offenses.....	9-1
Arson of a Dwelling	9-1
Burning of a Building	9-2
Burning of Personal Property, Boat, or Motor Vehicle	9-4
Attempt, Set Fire or Burn.....	9-5
Burning Insured Property	9-6
False Fire Alarm	9-7
Interference with Police or Fire Signal Systems	9-8
Interference with Fire Fighting Operations.....	9-9
Breaking & Entering Offenses	10-1
Burglary	10-1
Breaking & Entering.....	10-5
Entering	10-13
Home Invasion.....	10-15
Larceny Offenses.....	11-1
Larceny.....	11-1
Motor Vehicles.....	11-10
Shoplifting	11-14
Theft Detection Shielding Devices	11-16
False Creation or Use of a Sales Receipt.....	11-17
Organized Retail Crime	11-17
Common & Notorious Thief.....	11-19
Receiving Stolen Property	11-20
Uttering & Credit Card Offenses	12-1
Larceny by Check.....	12-1

Credit Card Offenses.....	12-3
Identity Fraud & False Impersonation	12-8
Uttering.....	12-12
Forging Bank Bill or Note.....	12-14
Passing Counterfeit Bills or Forged Notes	12-15
Explosive-Based Offenses	13-1
Explosives: Possession or Control.....	13-1
Use with Intent to Discharge or Cause Fear	13-4
Discharge, Ignition, Explosion	13-5
Trespass	14-1
Trespassing After Notice	14-1
Trespass on Railroad Property	14-3
Trespass by Motor Vehicle	14-3
Destruction to Property	15-1
Defacement of Property	15-1
Tagging.....	15-2
Willful, Malicious or Wanton Destruction to Personal Property, Dwelling House, or Building of Another.....	15-3
Damage to Churches, Synagogues & Memorials	15-5
Catalytic Converters	16-1
Catalytic Converters, Sale, or Transfer.....	16-1
Firearms	17-1
Definitions.....	17-1
Use of Firearm While Committing a Felony	17-11
Restrictions on Use of 3D Printers and CNC Machines for Firearm Manufacturing (Ghost Guns)	17-12
Self Defense Spray – Purchase	17-13
Firearms – License to Sell – Violations	17-14
Firearms – Purchase - Sale - Transfer	17-14

Firearms – Purchase Violations	17-16
Firearms – Fraudulent Purchase or Application	17-17
Firearms Identification Card	17-18
Firearms – Possession Exemptions.....	17-19
Firearms – Surrender	17-22
Firearms – Prohibited Sales – Exceptions for Minors	17-25
Possession - License to Carry.....	17-25
Nonresident Temporary License to Carry.....	17-27
Prohibited Persons.....	17-30
Mental Health Hospitalization	17-35
Firearms in Motor Vehicles.....	17-37
Stun Guns	17-38
Improper Storage of Firearms.....	17-39
Assault Weapons & Large Capacity Feeding Devices	17-42
Covert Weapons.....	17-44
Hunting or Target Shooting Under the Influence	17-44
Recreation & Snow Vehicles – Firearms Requirements.....	17-45
Dangerous Weapons	18-1
Unlawful Possession of Firearm.....	18-1
Possession without FID Card	18-6
Failure to Surrender after Suspension or Revocation	18-7
Dangerous Weapon on School Grounds.....	18-8
Firearm Possession – Prohibited Area.....	18-9
Large Capacity Weapons.....	18-11
Carrying Loaded Firearm without License	18-12
Unlawful Carrying of Dangerous Weapon	18-14
Tear Gas.....	18-16
Body Armor or Protective Devices.....	18-17
Unlawful Sale or Distribution of Multiple Firearms	18-17
Illegal Sale of Large Capacity Weapons or Feeding Devices.....	18-18

Transportation of Firearm for Use in Criminal Activity	18-19
Breaking & Entering to Steal Firearm	18-21
Breaking & Entering into Firearm Retailer, Wholesaler, or Manufacturer	18-22
Possession of Firearm with ID Defaced	18-23
Firearm-Defaced Serial Number.....	18-24
Air Rifle or BB Guns.....	18-24
Carrying Loaded Rifle or Shotgun on Public Way.....	18-26
Discharge of Firearm within 500 Feet of a Building.....	18-30
Reckless Discharge of Firearm Striking a Building.....	18-32
Violent Crime – Possession of Deceptive Weapon	18-32
Controlled Substances.....	19-1
Classes of Drugs	19-1
Class A: Unauthorized Manufacture, Distribution, Dispensing or Possession	19-14
Class B: Unauthorized Manufacture, Distribution, Dispensing or Possession	19-17
Class C: Unauthorized Manufacture, Distribution, Dispensing or Possession.....	19-20
Class D: Unauthorized Manufacture, Distribution, Dispensing or Possession	19-21
Class E: Unauthorized Manufacture, Distribution, Dispensing or Possession	19-23
Trafficking.....	19-23
Class A, B, or C Controlled Substances: Unauthorized Manufacture, Distribution, Dispensing or Possession to Minors	19-31
Unauthorized Manufacture, Distribution, Dispensing or Possession.....	19-34
Sale of Drug Paraphernalia	19-34
An Act Providing for Drug Free School Zone	19-36
Exploitation of Minors in Sale and Distribution of Controlled Substances	19-38
Possession of Marijuana	19-39
Immunity from Prosecution for Persons Who Seek Medical Assistance for a Drug-Related Overdose.....	19-43
Protective Custody of Child Found where Controlled Substances Kept.....	19-44
Stealing Controlled Substance	19-45
Conspiracy to Violate Chapter 94C.....	19-45

Arrest without Warrant	19-46
Alcohol Offenses	20-1
Persons under 21	20-1
Liquor Purchase Identification Cards.....	20-6
Notice to Patrons of Penalties for OUI	20-8
Warrantless Arrests	20-8
Hindering	20-9
Alcoholic Beverages on School Premises.....	20-9
Escape & Resisting Arrest	21-1
Escape from City or Town Jail	21-1
Resisting Arrest	21-2
Escape or Breach of Parole: DYS.....	21-5
Escape: DYS	21-5
Public Order Offenses.....	22-1
Child Prostitution.....	22-1
Open and Gross Lewdness and Lascivious Behavior	22-4
Matters Harmful to Minors: Dissemination or Possession with Intent	22-6
Obscene Matter: Dissemination or Possession with Intent.....	22-8
Child Pornography.....	22-10
Disturbance of Assemblies: Public School or Meeting.....	22-20
Common Nightwalker	22-22
Annoying and Accosting Persons.....	22-22
Lewd, Wanton, & Lascivious Act	22-24
Indecent Exposure	22-25
Disorderly Conduct.....	22-26
Disorderly Conduct – Peeping Tom	22-28
Disturbing the Peace	22-29
Engaging in Sexual Conduct for Fee	22-30
Cruelty to Animals.....	22-32

Dogs: Mode of Restraint Restricted.....	22-35
Willful Injury of Police Dogs & Horses.....	22-39
Electronic Recording or Surveillance of Nude or Partially Nude Person	22-39
Abuse Prevention Orders	23-1
Definitions.....	23-1
Venue.....	23-5
Abuse Prevention Order	23-6
Service of the Order	23-9
Information Required to be Given to Complainant.....	23-10
Suspension of Firearm License & Surrender of Firearms with Temporary or Emergency Order.....	23-10
Continuation or Modification of Firearm Suspension & Surrender Order.....	23-11
Firearm License Suspension & Surrender: Reporting	23-12
Temporary Orders	23-12
Granting of Relief When Courts Closed.....	23-13
Protection Orders Issued by Another Jurisdiction	23-14
Powers and Duties of Law Officers	23-15
Confidentiality of Plaintiff's Address & Records Involving Minors	23-18
Form of Complaint	23-19
Assessment Upon Assignment to Batterers' Treatment Program.....	23-19
Domesticated Animals: Possession, Care & Control	23-20
Minors as Plaintiffs in Chapter 209A Actions.....	23-20
Harassment Prevention Orders.....	24-1
Definitions.....	24-1
Jurisdiction.....	24-3
Filing of Complaint	24-3
Information Provided to Complainant	24-4
Temporary Protection Orders	24-5
Court Closed for Business.....	24-6
Firearms License & Weapon Surrender	24-6

Continued Firearms License & Weapon Surrender.....	24-8
Reporting Requirements Involving Firearms Suspensions.....	24-8
Protection Order Issued by Another Jurisdiction.....	24-9
Emergency Response	24-9
Review of Records: Violation Notice	24-12
Non-Disclosure of Confidential Information: Minors	24-14
Form of Complaint	24-15
Assessment Fee: Treatment Program	24-15
Harassment Prevention Order – Juveniles - Mediation.....	24-15
Case Highlights	24-16
Extreme Risk Protection Orders.....	25-1
Definitions.....	25-1
Petition - Risk of Bodily Injury.....	25-3
Non-Emergency Hearing	25-4
Emergency ERPO Hearing	25-5
Surrender of Firearms & Return of Service	25-7
Search Warrant Pursuant to G.L. c. 276, § 1	25-8
Search Warrant Pursuant to G.L. c. 140.....	25-8
Dispute over Title to Firearms	25-10
Expiration or Termination of ERPO	25-10
Transfer Possession of Firearms & Ammunition	25-11
Notification to Agencies of an ERPO.....	25-12
False Petition - Intent to Harass	25-12
Accessory & Attempt	26-1
Accessory before the Fact.....	26-1
Accessory after the Fact.....	26-2
Attempt to Commit a Crime.....	26-4
Conspiracy to Commit a Crime.....	26-5
Solicitation, Counsel, Advise, or Enticement of Another to Commit a Crime	26-7

Venue.....	27-1
Crime near Boundary Line	27-1
Certain Doubtful Cases	27-1
Larceny.....	27-2
Buying, Receiving Stolen Property.....	27-2
Violations Involving Electronic Data	27-2
Embezzlement or Fraudulent Conversion or Appropriation by Fiduciaries	27-2
Obtaining Money by False Pretenses	27-3
Transmitting False Reports of Location of Explosives	27-3
Where Injury is in One County and Death in Another	27-3
Crime Committed at Sea	27-3
Injury Is in This Commonwealth & Death Outside.....	27-3
Criminal Violation of Abuse Prevention Order.....	27-4
Stalking.....	27-4
Statute of Limitations	28-1
Murder	28-1
Child Sexual Assault, Endangerment & Human Trafficking.....	28-1
Domestic A&B, Sexual Assault, Commercial Sexual Activity.....	28-2
Robbery, Confining, Incest	28-3
All Other Crimes.....	28-3
Victim Under Age 16	28-3

About the Author



Attorney A. Kevin Kennedy

Attorney Kennedy is married to his wife Joanne and they are the proud parents of their four children: Samantha, Kyle, Torrie, and Andrew.

Attorney Kennedy retired after a distinguished career of more than thirty-three years in law enforcement, dedicating thirty-one of those years to the Lincoln, MA Police Department. Throughout his tenure, Attorney Kennedy held various positions, including Patrol Officer, Juvenile Officer, Inspector/Prosecutor, Lieutenant, and most notably, Chief of Police for more than nine years. His career involved direct participation in hundreds of investigations, addressing both violent and non-violent crimes committed by adults and juveniles. His background and extensive experience have provided Attorney Kennedy with a deep and comprehensive understanding of all aspects of law enforcement.

Attorney Kennedy holds a B.S. in Criminal Justice from Western New England College, a Juris Doctor from the Massachusetts School of Law, and a Certificate in Public Safety Leadership and Management from Suffolk University. Admitted to the Massachusetts Bar in 2005, Attorney Kennedy now imparts his vast knowledge by instructing recruit and veteran police officers across the Commonwealth of Massachusetts on various legal topics.

Chapter 1

Common Law Offenses

Common Law, is a system of laws which originated in England and has evolved from early days to the present, consisting of old and accepted customs, precedents and court decisions, old English statutes and other unwritten but accepted standards. Common law is the foundation for the legal system in every state of the United States, except Louisiana. **In Massachusetts, common law is still in effect except where it has been modified or repealed by statute.**

The District Court Manual lists the following nine (9) offenses as common law crimes.

- 1) Affray,
- 2) Criminal Contempt,
- 3) Escape from a Police Officer,
- 4) Interference with a Police Officer,
- 5) Resisting Arrest,
- 6) Solicitation to Commit a Felony,
- 7) Obstruction of Justice,
- 8) Forgery, and

9) Uttering.

Affray

Affray is defined as fighting together of two or more persons in a public place to the terror of the persons lawfully there.¹

Elements:

- 1) the defendant fought with one or more persons,
- 2) the fighting took place in a public place, and
- 3) at least one person who was lawfully present in the public place was put in fear as a result of the fighting that occurred.

Penalty: As provided in G. L. c. 279, § 5: If no punishment for a crime is provided by statute, the court shall impose such a sentence, according to the nature of the crime, as conforms to the common usage and practice in the commonwealth. If a person is convicted of a misdemeanor punishable by imprisonment, they may, unless otherwise expressly provided, be sentenced to imprisonment either in jail or in the house of correction.

Regarding the first element, **fighting is the use of physical force or violence or any threat to immediately use such force or violence.**

The crime of affray is “**an injury to the public peace rather than to parties engaged in the fighting, and so long as two or more persons are engaged in the same combat, whether they are fighting on the same or opposing sides is immaterial to the terror caused to the public.**”²

"Lawfully present" for purposes of affray encompasses the lawful right to be present in the public place, **not the purposes of those lawfully present there.**³

Nothing in the definition of affray precludes a defendant so charged from asserting **self-defense** or **defense of another** in justification of their conduct.⁴

¹ See G.L. c. 277, § 39.

² *Commonwealth v. Nee*, 83 Mass. App. Ct. 441, 442 (2013).

³ *Id.* at 447.

⁴ *Id.* n.8

Chapter 2

Murder & Manslaughter

First Degree Murder

G.L. c. 265, § 1

Elements: The killing of a human being with:

- a) deliberately premeditated malice aforethought, or
- b) with extreme atrocity or cruelty, or
- c) in the commission or attempted commission of a crime punishable with death or imprisonment for life.

Right of Arrest: Felony, in presence right of arrest, or upon probable cause.

Penalty: State prison for life without parole.¹⁴

¹⁴ G.L. c. 265, § 2.

Juvenile Life Sentences

Following the Supreme Court's ruling in Miller v. Alabama, the SJC held that **the juvenile homicide offender who is convicted of murder in the first degree and receives a mandatory sentence of life in prison must be afforded a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation, and this opportunity must come through consideration for release on parole.**

To comply with the holding in Diatchenko, Governor Patrick signed into law "An Act relative to juvenile life sentences for first degree murder." The law eliminated life sentences for juveniles, between the ages of 14 and 18, who have been convicted of first-degree murder and sentenced to life in prison without the possibility of parole. **The law set the following terms for parole eligibility:**

- First degree murder (felony murder): not less than 20 years nor more than 30 years,
- First degree murder with deliberately premeditated malice aforethought: not less than 25 years nor more than 30 years, and
- First degree murder with extreme atrocity or cruelty: not less than 30 years.

Emerging Adults Life Sentences

In Commonwealth v. Mattis, 493 Mass. 216, 237 (2024), the SJC ruled that life sentences without the possibility of parole for emerging adults who are eighteen, nineteen, or twenty years of age, **violates Article 26 of the Massachusetts Declaration of rights.**

The court explained that "our comprehensive review informs us that Supreme Court precedent, as well as our own, dictates that youthful characteristics must be considered in sentencing, that the brains of emerging adults are not fully developed and are more similar to those of juveniles than older adults, and that our contemporary standards of decency in the Commonwealth and elsewhere disfavor imposing the Commonwealth's harshest sentence on this cohort. Consequently, we conclude that a sentence of life without the possibility of parole for emerging adult offenders violates art. 26."

Therefore, an emerging adult who is found guilty of murder on or after July 25, 2014, will be parole eligible under the same terms as set forth above for juveniles.