

Sources of Criminal Law

- Common Law
- Statutes
 - Rules 1-100: Read the Statute
 - Model Penal Code
- Constitution

BEYOND A REASONABLE DOUBT

Clear & Convincing

Preponderance

Probable Cause

Reasonable Suspicion

Hunch

Reasonable Doubt

- 12th Century: “Full Proof”
- 17th Century: “Satisfied conscious”
- 1770: Boston Massacre – “Beyond a Reasonable Doubt”
- 1850’s: Beyond a Reasonable Doubt fully accepted by the states.
- In re Winship (1970) Due Process mandates Beyond a Reasonable Doubt.

Reasonable Doubt

- It is better to risk saving a guilty person than to condemn an innocent one. Voltaire
- It is better that five guilty persons should escape unpunished than one innocent person should die. Sir Matthew Hale
- It is better than ten guilty persons escape than one innocent suffer. Blackstone
- Better that hundreds of guilty persons should escape scot-free than that one innocent person should suffer. Charles Dickens

1993 Gallup Poll

- It is far better for society to let some guilty people go free than to risk convicting an innocent person.
 - 41% agreed (strongly or somewhat agreed)
 - 56% disagreed (strongly or somewhat)