



Understanding Criminal Law

Joshua Dressler



Legal Text
Series

UNDERSTANDING CRIMINAL LAW

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LEGAL TEXT SERIES



Matthew Bender



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PREFACE

Purpose and Scope of the Text. This text is designed for use by law students enrolled in a class in Criminal Law. It will also be helpful to lawyers, judges, and others who need an introduction to the doctrine and theory of criminal law.

The study of "criminal law" is the study of specific crimes and rules of criminal responsibility (sometimes described as the "general part of the criminal law"). The latter rules articulate the circumstances under which it is morally appropriate to blame and punish persons for committing morally wrong and harmful acts. Because the criminal law is rooted in moral values the subject is controversial and exciting. The text canvasses the historical and modern state of criminal law doctrine and provides insight into the controversial aspects of the law. The book emphasizes the "common law" (judge-made law), constitutional law, and the Model Penal Code.

The scope of the text is broad enough to meet the needs of any student using any nationally published coursebook in Criminal Law. The early chapters (specifically, Chapters 1–8) provide the student with the tools used for the analysis of the criminal law. The doctrines of criminal responsibility relevant to all crimes are covered, beginning with Chapter 9. Finally, the crimes of attempt, solicitation, conspiracy, criminal homicide (murder and manslaughter), theft (larceny, embezzlement, and false pretenses), and rape are covered in detail in separate chapters. Other crimes are discussed in less detail throughout the text.

In order to make the text useful to readers with differing needs it is organized so that it can be read cover-to-cover or in portions in the order suitable to the organization of the student's Criminal Law class. The goal of the book is to provide the reader with a clear explanation of the law and a thorough understanding of the theory that undergirds it. Footnotes are used sparingly compared to scholarly law review articles. When they are used it is ordinarily to cite to a case or a few cases on point (often, those discussed or reprinted in criminal law casebooks), and to direct the reader to law review articles and books that may prove of additional value.

Gender Policy of the Text. For most of Anglo-American legal history, men monopolized the critical roles in the system of criminal justice. With only a few exceptions, lawyers, judges, legislators, jurors, and criminals were men. The only place for a woman in the system was as a victim of crime. Such sexual inequality, of course, is changing. Today, women increasingly serve in all of the important roles in the legal system.

As an author of a book that will be read and used by readers of both sexes I wanted to make sure that the Text recognized the increasing importance of women in the law. Therefore, when discussing hypothetical defendants (*D*) and victims (*V*) and when writing in general terms about other parties in the legal system—e.g., lawyers, judges, and legislators—I balance the account between male and female parties. In odd-number chapters the parties are female; in the even-numbered chapters males get equal time. I only diverge from this ap-

proach when the gender policy would distort history (e.g., I will not talk about property-holders in sixteenth century England as if they were women), be inaccurate as a principle of law, or cause confusion for the reader.

Acknowledgements. A book of this length cannot be written without help from many people. A few people, however, deserve special attention. Luckily for me, Robert Abrams was Interim Dean of Wayne State University Law School when I began this book. Robbie believed in the importance of the project. His support—personally and administratively—made it possible for me to complete it on time and, more importantly, in a reasonable frame of mind.

My colleague, Leroy Lamborn, should receive the Good Citizen award; although I am not sure that either of us knew what he was getting himself into when it started, Leroy looked at every chapter of this book as it was finished and provided me with many helpful editorial and substantive suggestions.

Thanks also goes to Nancy Omichinski, Class of 1987, for her marvelous research work on the book. I also wish to express my appreciation to Wayne State University for providing me with a Career Development Chair, which entitled me to research support and, far more importantly, to leave time to complete the text.

Finally, and probably most importantly, I want to mention my family. My wife, Dottie, heroically put up with my obsessive desire to work on the manuscript over the past two years; and my son, David, remarkably resisted complaining about the fact that the home computer was never available for his personal use. Their love has always served as the stabilizing influence in my life. I love them dearly.

Huntington Woods, Michigan
February, 1987

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Citations throughout the text to the Model Penal Code are from the official draft of the Model Penal Code as adopted at the 1962 Annual Meeting of The American Law Institute. The official draft and explanatory notes are published in The American Law Institute, *Model Penal Code* (1985). Excerpts from the Model Penal Code and the Comments thereto, are copyright 1980, 1985 by The American Law Institute and reprinted with the permission of The American Law Institute.

TABLE OF CONTENTS

Chapter 1 Introduction

	Page
§ 1.01 Crimes	1
§ 1.02 Principles of Criminal Responsibility	2

Chapter 2 Principles of Criminal Punishment

§ 2.01 Overview	3
§ 2.02 Definition of “Punishment”.	3
§ 2.03 Theories of Punishment	4
[A] Forms of Moral Reasoning	4
[B] Utilitarianism	4
[1] Basic Premises	4
[2] Forms of Utilitarian Theory	5
[C] Retributive Theory	6
[1] Basic Premises	6
[2] Forms of Retributive Theory	7
[D] Denunciation	8
§ 2.04 The Debate Between the Competing Theories	8
[A] Criticisms of Utilitarianism	9
[1] General and Specific Deterrence	9
[2] Rehabilitation	10
[B] Criticisms of Retributive Theory	10
§ 2.05 Mixture of Theories	11

Chapter 3 Sources of the Criminal Law

§ 3.01 Origins of the Criminal Law	13
§ 3.02 Modern Role of the Common Law	14
[A] “Reception” Statutes	14
[B] Statutory Interpretation	16
§ 3.03 Model Penal Code	16

Chapter 4

Constitutional Limits on the Criminal Law

§ 4.01	Overview	19
§ 4.02	Sources of Constitutional Limits	19
	[A] Bill of Rights	19
	[B] Fourteenth Amendment	21
	[C] Right of Privacy	22
§ 4.03	Legislative-Judicial Tension	23
	[A] Sources of Tension	23
	[B] Separation of Powers	23
	[C] Federalism	23
	[D] Protecting Individual Rights	24
	[E] The Effects of the Tension	24

Chapter 5

Legality

§ 5.01	Principle of Legality	25
	[A] The Principle Defined	25
	[B] Justification for the Principle	25
	[C] Constitutionalization of the Principle	26
	[D] Retroactive Criminalization by the Judiciary	26
§ 5.02	Statutory Clarity	27
	[A] General Principles	27
	[B] Constitutional Doctrine of Vagueness	28
§ 5.03	Avoiding Undue Discretion in Law Enforcement	29
§ 5.04	Strict Construction of Statutes	30

Chapter 6

Proportionality

§ 6.01	Overview	31
§ 6.02	Utilitarianism and Proportionality	31
	[A] General Principles	31
	[B] Application of the Principles	32
	[1] General Deterrence	32
	[2] Specific Deterrence	32
	[3] Rehabilitation	33

	Page
§ 6.03 Retributive Theory and Proportionality	33
[A] General Principles	33
[B] Application of the Principles	34
[1] The Harm Component	34
[2] The Blameworthiness Component	35
[3] Combining the Two Components	36
§ 6.04 Comparing the Two Theories of Proportionality	36
§ 6.05 Constitutional Requirement of Proportionality	38
[A] General Principles	38
[B] <i>Coker v. Georgia</i>	38
[C] <i>Rummel v. Estelle</i>	40
[D] <i>Solem v. Helm</i>	42
[E] Summary	43

Chapter 7

Burdens of Proof

§ 7.01 Overview	45
§ 7.02 Burden of Production	46
[A] Nature of the Burden	46
[B] To Whom the Burden is Allocated	46
[C] Quantum of Evidence Required	47
[D] Effect of Failing to Meet Burden	47
§ 7.03 Burden of Persuasion	48
[A] Nature of the Burden	48
[B] To Whom the Burden is Allocated	49
[1] In General	49
[2] <i>Mullaney v. Wilbur</i>	49
[3] <i>Patterson v. New York</i>	50
[4] Integrating <i>Mullaney</i> with <i>Patterson</i>	52
[C] Quantum of Evidence Required	53
[1] Elements of Crimes	53
[2] Defenses	53
[D] Effect of Failing to Meet Burden	54
[1] Elements of Crimes	54
[2] Defenses	54
§ 7.04 Model Penal Code	55
[A] Burden of Production	55

[B]	Burden of Persuasion	55
-----	--------------------------------	----

Chapter 8 Presumptions

§ 8.01	The Nature of a Presumption	57
§ 8.02	Mandatory Presumptions	58
	[A] Rebuttable Mandatory Presumptions	58
	[B] Irrebuttable Mandatory Presumptions	59
§ 8.03	Permissive “Presumptions”	60
§ 8.04	Model Penal Code	61

Chapter 9 Actus Reus

§ 9.01	<i>Actus Reus</i> : General Principles	63
	[A] Definition	63
	[B] Punishing Thoughts: Why Not?	63
§ 9.02	Voluntary Act: General Principles	65
	[A] General Rule	65
	[B] The “Act”	65
	[C] “Voluntary”	66
	[1] Broad Meaning	66
	[2] Narrow Meaning	67
	[3] Examples of “Voluntary” and “Involuntary” Acts	68
	[4] Hypnotism	69
	[D] Rationale for the Voluntary Act Requirement	69
	[E] Burden of Proof	70
§ 9.03	Voluntary Act: Apparent Exceptions	71
	[A] Poorly Drafted Statutes	71
	[B] Vagrancy Offenses	71
	[C] Crimes of Possession	72
§ 9.04	Voluntary Act: Constitutional Law	73
	[A] In General	73
	[B] <i>Robinson v. California</i>	73
	[C] <i>Powell v. Texas</i>	74
	[1] The Holding	74
	[2] Analysis of <i>Powell</i> in Light of <i>Robinson</i>	75

	Page
§ 9.05 Voluntary Act: Model Penal Code	77
[A] General Provisions	77
[B] Hypnosis	79
[C] Crimes of Possession	79
§ 9.06 Omissions: General Principles	79
[A] General Rule	79
[B] Rationale for the Rule	80
[C] Criticisms of the Rule	81
[D] Alternatives to the Common Law Rule	81
§ 9.07 Omissions: Exceptions to the Common Law Rule	82
[A] Statutory Duty	82
[B] Status Relationship	82
[C] Contractual Obligation	83
[D] Creation of Risk	83
[E] Voluntary Assistance	83
§ 9.08 Omissions: Model Penal Code	84
§ 9.09 Medical “Omissions”: A Special Problem	84
[A] The Problem	84
[B] Act or Omission?	85
[C] Analysis as an “Omission”	85
[D] The <i>Barber</i> Approach	86
[E] Other Approaches to the Problem	87
§ 9.10 Social Harm: General Principles	87
[A] Introduction	87
[B] Why Require “Social Harm”?	87
[C] Definition of “Social Harm”	88
[D] Categories of “Social Harm”	89
[1] Preliminary Observation	89
[2] “Result” Crimes	89
[3] “Conduct” Crimes	89
[4] Attendant Circumstances	90
[5] Combining the Terms	90
§ 9.11 Social Harm: Constitutional Law	90
[A] In General	90
[B] Constitutional Limits on Legislative Authority	91

Chapter 10

Mens Rea

§ 10.01	General Principle	95
§ 10.02	Definition of “ <i>Mens Rea</i> ”	95
	[A] Ambiguity of the Term	95
	[B] Broad Meaning	96
	[C] Narrow Meaning	96
§ 10.03	Rationale of the <i>Mens Rea</i> Requirement	97
	[A] Arguments Based on Utilitarian Theory	97
	[B] Arguments Based on Retributive Theory	98
§ 10.04	Definitions of Particular <i>Mens Rea</i> Terms	98
	[A] “Intentionally”	98
	[B] “Negligently”	99
	[1] Types of Risk-Taking	99
	[2] “Innocent Risk-Taking” and “Civil Negligence”	100
	[3] “Criminal Negligence”	101
	[a] “Criminal Negligence” as “Civil Negligence Plus”	101
	[b] “Criminal Negligence” Defined	101
	[4] Should Negligence Be Punished?	101
	[C] “Recklessly”	103
	[D] “Malice”	104
	[E] “Wilful”	105
	[F] “Knowingly”	105
§ 10.05	Statutory Interpretation of <i>Mens Rea</i> Terms	106
§ 10.06	“Transferred Intent”	108
§ 10.07	“Specific Intent” and “General Intent”	108
§ 10.08	Model Penal Code	110
	[A] Overview	110
	[B] How to Use Model Penal Code § 2.02	111
	[1] Relationship of “ <i>Mens Rea</i> ” to “ <i>Actus Reus</i> ”	111
	[2] Four-Step Analysis	111
	[C] Specific MPC Culpability Terms	112
	[1] “Purposely”	112
	[2] “Knowingly”	113
	[3] “Recklessly” and “Negligently”	114

Page

Chapter 11
Strict Liability

§ 11.01	Overview	117
§ 11.02	Types of Strict-Liability Offenses	117
	[A] Public-Welfare Offenses	118
	[B] Traditional Offenses	118
§ 11.03	Debate Regarding Strict-Liability Offenses	119
	[A] Search for a Justification	119
	[B] Alternatives to Strict Liability	120
	[C] Lady Wootton’s Proposal	121
§ 11.04	Constitutionality of Strict-Liability Offenses	122
	[A] Due Process of Law	122
	[B] Cruel and Unusual Punishment	124
§ 11.05	Model Penal Code	124

Chapter 12
Mistakes of Fact

§ 12.01	Overview	127
§ 12.02	Basis for Exculpation Due to Mistake	128
§ 12.03	Common Law Rules	129
	[A] General Approach	129
	[B] Strict-Liability Offenses	130
	[C] Specific-Intent Offenses	130
	[1] Mistakes Regarding the “Specific Intent”.	130
	[2] Mistakes Regarding the “General Intent”.	130
	[D] General-Intent Offenses	132
	[1] Usual Approach: Reasonableness of the Mistake	132
	[a] Rule	132
	[b] Criticisms of the Rule	132
	[2] Moral-Wrong Doctrine	133
	[a] Background	133
	[b] Rule	133
	[c] Criticisms of the Doctrine	134
	[3] Legal-Wrong Doctrine	135
	[a] Rule	135
	[b] Criticism of the Doctrine	136

	Page
[4] <i>Regina v. Morgan</i> : Common Law in Transition?	136
§ 12.04 Model Penal Code	138
[A] General Rule	138
[B] Exception to the Rule	139

Chapter 13

Mistakes of Law

§ 13.01 General Principles	141
[A] General Rule	141
[B] Rationale of the Rule	141
[1] Certainty of the Law	141
[2] Avoiding Subjectivity in the Law	142
[3] Fraud	143
[4] Sacrificing the Individual for the Public Good	143
§ 13.02 Exceptions to the General Rule	144
[A] General Approach: Types of Mistakes	144
[B] Same-Law Mistakes	144
[1] Authorized Reliance	144
[a] General Rule	144
[b] Reliance on Judicial Opinions	144
[c] Reliance on Statutes and the Common Law	145
[d] Reliance on Legal Advice	146
[i] General Rule	146
[ii] Advice from Private Attorneys	147
[iii] Advice from Prosecutors	147
[2] Fair Notice: The <i>Lambert</i> Principle	148
[a] The Holding	148
[b] Limits of <i>Lambert</i>	149
[C] Different-Law Mistakes	150
[1] General Approach	150
[2] Specific-Intent Offenses	151
[3] General-Intent Offenses	151
[4] Strict-Liability Offenses	151
§ 13.03 Model Penal Code	152
[A] General Rule	152
[B] Exceptions to the General Rule	152

Page

[1]	Same-Law Mistakes	152
[a]	Authorized Reliance	152
[b]	Fair Notice	153
[2]	Different-Law Mistakes	154

Chapter 14

Causation

§ 14.01	General Principles	155
[A]	Element of Criminal Responsibility	155
[B]	Role of “Causation” in Criminal Law Theory	156
[C]	“Causation” in Criminal Law versus Tort Law	157
[D]	Rules versus General Principles	158
§ 14.02	Actual Cause	158
[A]	<i>Sine qua non</i> Test	158
[B]	“Causes” versus “Conditions”	159
[C]	Special “Actual Cause” Problems	159
[1]	Confusing “Causation” with “ <i>Mens Rea</i> ”	159
[a]	Causation Without <i>Mens Rea</i>	159
[b]	<i>Mens rea</i> Without Causation	160
[2]	Multiple Actual Causes	160
[a]	Accelerating a Result	160
[b]	Concurrent Sufficient Causes	161
[3]	Obstructed Causes	162
§ 14.03	Proximate Cause	162
[A]	Overview	162
[B]	Direct Cause	163
[C]	Intervening Causes	163
[1]	Framing the Issue	163
[2]	Factor 1: <i>De Minimis</i> Cause	164
[3]	Factor 2: Intended Consequences	164
[4]	Factor 3: Dangerous Forces that “Come to Rest”	165
[5]	Factor 4: Voluntary Human Interventions	166
[6]	Other Factors	167
[a]	Dependent Intervening Causes	167
[b]	Independent Intervening Causes	168
§ 14.04	Model Penal Code	169

	Page
[A] Actual Cause	169
[B] Proximate Cause	169

Chapter 15
Concurrence of Elements

§ 15.01 General Principle	171
§ 15.02 Temporal Concurrence	171
[A] <i>Mens Rea</i> Preceding <i>Actus Reus</i>	171
[B] <i>Actus Reus</i> Preceding <i>Mens Rea</i>	172
§ 15.03 Motivational Concurrence	172
§ 15.04 Special Problem: Multiple Voluntary Acts	173

Chapter 16
Defenses: An Overview

§ 16.01 Introduction	175
§ 16.02 Case-in-Chief “Defenses”	175
§ 16.03 True Defenses	176
[A] In General	176
[B] Justification Defenses	176
[C] Excuse Defenses	177
[D] Specialized Defenses	177
[E] Extrinsic Defenses	178

Chapter 17
Justifications and Excuses

§ 17.01 Overview	179
§ 17.02 Underlying Theories of “Justification”	180
[A] Initial Comments	180
[B] Acts in the Public Benefit	180
[C] Moral Forfeiture	181
[D] Securing Legal and Moral Rights	182
[E] Superior Interest	182
§ 17.03 Underlying Theories of “Excuse”	183
[A] Initial Comments	183
[B] Deterrence	183
[C] Causation	184
[D] Character	184

	Page
[E] Personhood	185
§ 17.04 “Mistakes of Fact” and Justifications	186
[A] The Issue	186
[B] Common Law Approach to the Issue	186
[C] Conceptual Problem with the Common Law Approach	187
§ 17.05 “Justification” versus “Excuse”: Why Does it Matter?	188
[A] Moral Guidance	188
[B] Retroactivity	188
[C] Burden of Proof	189
[D] Accomplice Liability	189
[E] Third Party Conduct	190

Chapter 18

Self-Defense

§ 18.01 Overview	191
§ 18.02 Deadly Force: General Principles	191
[A] Common Law Rule	191
[B] Clarification of the General Rule	192
[1] “Deadly Force”: Definition	192
[2] “If <i>D</i> is not the Aggressor”.	193
[a] General Comments	193
[b] Definition of “Aggressor”	194
[c] Removing the Status of “Aggressor”.	195
[i] General Observations	195
[ii] Non-Deadly Aggressor	195
[3] Requirement of Necessity: The Retreat Doctrine	196
[a] Common Law Rules	196
[b] The “Castle” Exception	197
[4] Nature of the Threat: “Imminent, Unlawful Deadly Force”	198
[a] “Imminent”	198
[b] “Unlawful Force”.	198
[C] “Imperfect” Defense of Self-Defense	199
§ 18.03 Deadly Force: Rationale for the Defense	199
[A] Self-Defense as an Excuse	199