

Joshua Dressler

Legal Text Series

## UNDERSTANDING CRIMINAL LAW

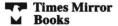
### Joshua Dressler

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LEGAL TEXT SERIES







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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

#### FREQUENTLY CITED SOURCES

The following is a list of sources frequently cited in this text and the shorthand form used to cite to them in footnotes.

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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

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