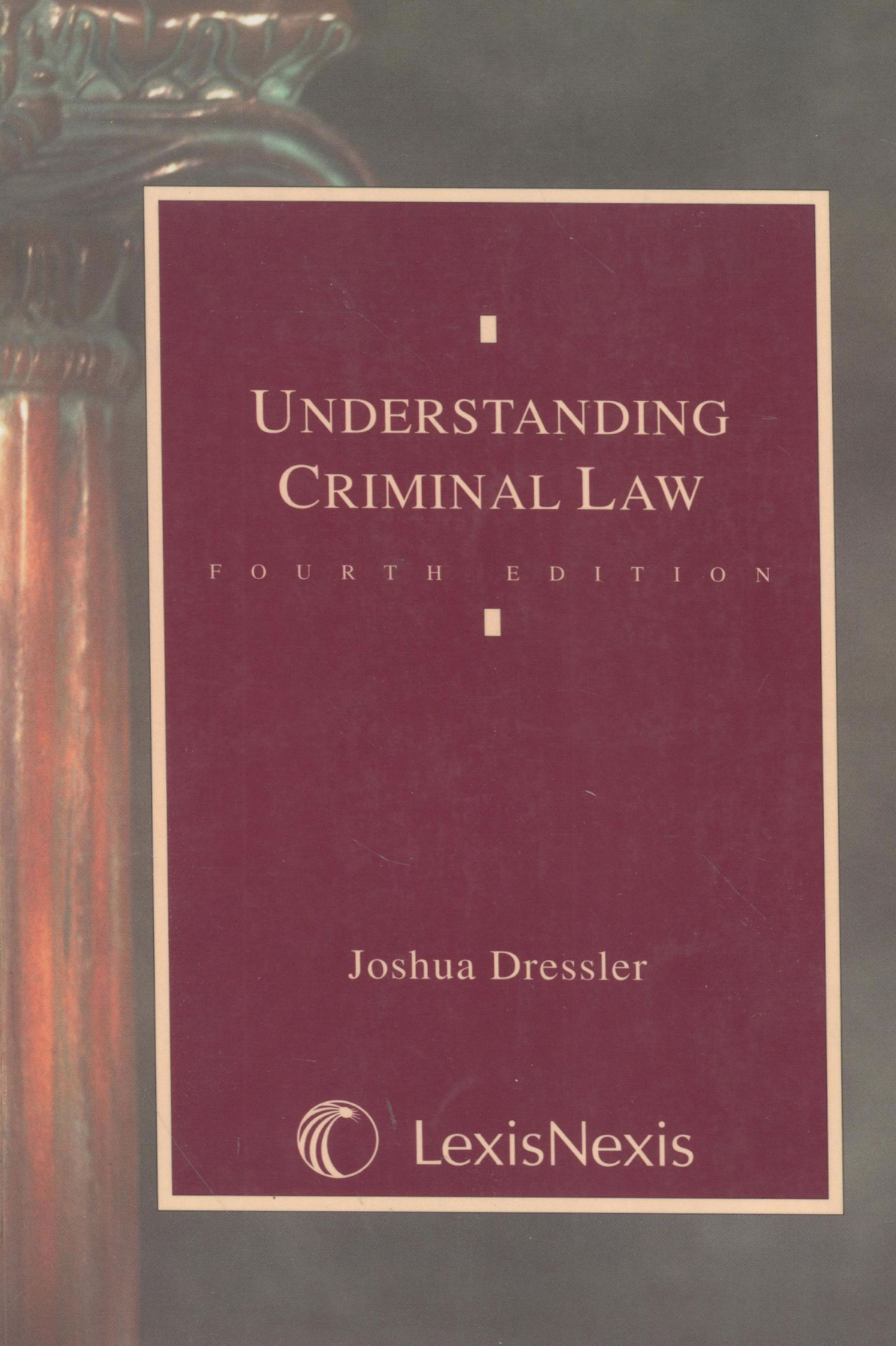




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UNDERSTANDING CRIMINAL LAW

F O U R T H E D I T I O N

■

Joshua Dressler



LexisNexis

UNDERSTANDING CRIMINAL LAW

FOURTH EDITION

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DEDICATION

Thank you, Casey Irene, Lucy Belle, and Maya Shoshana

PREFACE TO THE FOURTH EDITION

This text is primarily designed for use by law students enrolled in a course in Criminal Law. However, it will also serve nicely in undergraduate courses covering substantive criminal law. As well, based on comments I have received from practicing attorneys, judges, and scholars (and citations to this text in judicial opinions and scholarly works), this text should be helpful to *anyone* looking for a survey of criminal law substance and theory. The text considers common law doctrine, statutory reform (with particular emphasis on the Model Penal Code), and constitutional law affecting the substantive criminal law.

I am gratified by the extremely favorable response UNDERSTANDING CRIMINAL LAW has received from users. Therefore, I have avoided the temptation to tinker. Each chapter has been updated from the third edition, to ensure that the criminal law described here is up-to-date. As before, I have included citations to new scholarship in the field, in the hope that users will look to some of these sources for additional insights into the various subjects.

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 crime victim. Such sexual inequality, of course, is changing, slowly but presumably surely. 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 and victims, 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-numbered chapters the parties are female; in the even-numbered chapters males get equal time. I diverge from this approach when the gender policy would distort history (e.g., there were no female property-holders in sixteenth century England), prove inaccurate as a principle of law, or confuse the reader.

Acknowledgements. A book of this length cannot be written without help from many people. I wrote the first edition while I was on the faculty at Wayne State University. My colleague there, Leroy Lamborn, read the first, and often the second, draft of every chapter of the book. He provided remarkably helpful editorial and substantive suggestions. I will be grateful forever.

Many readers assisted me in improving the text. I have been blessed over the years with letters, e-mail messages, and telephone calls from professors (here and in Europe, Australia, and New Zealand), judges, practitioners, and law students, all providing advice. Although I know I have missed some names, for which I apologize, I thank the following people for their input: Marcia Baron; Robert Batey; Charles Bobis; William Bridge; Anthony Dillof; Madame Justice Claire L'Heureux-Dubé; Antony Duff; Susan Beth Farmer; Jeffry Finer; Stanley Fisher; Norman Garland; Stephen Garvey; Abner Greene; Peter Henning; Christopher Johnson; Cynthia Lee; Alan Michaels; David Moran; Stephen

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American Law Institute, MODEL PENAL CODE AND COMMENTARIES (OFFICIAL DRAFT AND REVISED COMMENTS) (PART I: GENERAL PROVISIONS) (1985); and

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