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■

UNDERSTANDING CRIMINAL LAW

SECOND EDITION

■

Joshua Dressler

UNDERSTANDING CRIMINAL LAW

SECOND EDITION

Joshua Dressler

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LEGAL TEXT SERIES

MATTHEW  BENDER

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PREFACE TO THE SECOND EDITION

As with the First Edition, this Text is primarily designed for use by law students enrolled in a course in Criminal Law. However, as before, I hope and expect that the book will prove helpful to practitioners and scholars alike, who are looking for a survey of criminal law theory and doctrine. 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 that the First Edition received a favorable response from its users. Therefore, I have avoided the temptation to tinker. I have clarified certain sections, made slight intra-chapter organizational changes for purposes of clarity, and, of course, have brought the Text up-to-date in light of changes in the law. I have also included citations to new scholarship in the field, in the hope that users will look to some of these sources for additional insight into the various subjects.

In the original Preface, I wrote:

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. . . .

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-numbered chapters the parties are female; in the even-numbered chapters males get equal time. I only diverge from this approach 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 [confuse] . . . the reader.

The Second Edition follows the same policy.

Acknowledgements. In the first edition, I wrote:

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 [Wayne State University] 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, [Wayne State] 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.

Many people assisted me in preparing this Second Edition. I received many letters and telephone calls from professors (and some law students) with advice for this edition. I took all of the comments to heart. In this regard, however, the Well-Beyond-the-Call-of-Duty Award must go to Professor Ken Simons (Boston University), who sent me two very long and useful letters commenting on the First Edition. Also, many teachers kindly took the time to complete a questionnaire regarding the First Edition, distributed by the publisher a few years ago. I carefully considered all of the advice therein.

At my new law school home, University of the Pacific (McGeorge School of Law), I thank Dean Gerald Caplan for the support I needed to get the new edition out on schedule. I also received excellent help from my Research Assistants, Syrus Devers and Kristin Engstrom. Also, Sidonie Christian (Class of 1994) provided her usual excellent editorial comments on the manuscript.

My wife, as always, has been there for me. My son no longer frets over the loss of the home computer, as he has gone off to college, graduated, and has his own computer. Although his mother and I miss his physical presence, we experience his spirit with us always, not to speak of his tuition bills.

Joshua Dressler
May 1, 1995

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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