

UNDERSTANDING
CRIMINAL LAW

SEVENTH EDITION

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MATTHEW  BENDER

(2015–Pub.789)

**To Dottie, David, Jessica, Lucy Belle, Maya Shoshana, and Gideon Jacob:
You give my life meaning and pleasure.**

Preface to the Seventh Edition

This text is primarily designed for use by law students enrolled in a course in Criminal Law. It also has served successfully 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 American 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.

This edition has undergone the most substantial revisions and updating since the original publication.

I am gratified by the extremely favorable response UNDERSTANDING CRIMINAL LAW has received over the years. Therefore, I have avoided the temptation to unnecessarily tinker. 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 topics. I believe each chapter has been improved overall.

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 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 and victims, and when writing in general terms about other parties in the legal system — e.g., lawyers, judges, and legislators — I have balanced 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 only when the gender policy would distort history (e.g., there were no female property-holders in 16th century England), prove inaccurate as a principle of law, or confuse the reader. Although I received some criticism of this style with the first edition, I am gratified that this approach is no longer viewed as particularly noteworthy.

Acknowledgments

A book of this length is not possible 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 first edition. He provided remarkably helpful editorial and substantive suggestions and encouragement.

Many readers have assisted me over the years in improving the text. I have been blessed with many e-mail messages, letters (remember those?), and telephone calls from professors (here and in Europe, Australia, and New Zealand!), judges, practitioners, and law students, all providing advice, corrections, and citations to lesser-known sources of knowledge. I thank all of you.

I thank Dean Alan C. Michaels for the support he has provided over the years. And that “support” goes well beyond the ordinary scholarly assistance that any fine law school, such as ours, offers its faculty.

I received help on this edition from past and present Research Assistants at my law school. They include Sierra Cooper, Gregory Djordjevic, and Allison Meena. Very special thanks goes to graduated Moritz student, Lisa Herman, who provided incredibly thoughtful research on a number of topics, which were incorporated into this edition.

Finally, I thank my extended family — my wife Dottie; my son, David; my daughter-in-law Jessica; my granddaughters Lisa Belle and Maya Shoshana; and my brand new grandson Gideon Jacob — for being there for me.

Joshua Dressler
May 2015
Columbus, Ohio

Frequently Cited Source

This text frequently cites to the MODEL PENAL CODE COMMENTARIES, found in two volumes:

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

American Law Institute, MODEL PENAL CODE AND COMMENTARIES (OFFICIAL DRAFT AND REVISED COMMENT) (PART II: DEFINITION OF SPECIFIC CRIMES) (1980).

* * *

These sources are cited in footnotes of this text by use of the shorthand "American Law Institute."

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