

Chapter 4

Inside Criminal Law

Learning Objective 1

- List the four written sources of American criminal law.



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American Criminal Law

- Constitutional law
 - The U.S. Constitution and the various state constitutions
- Statutory law
 - Laws and ordinances passed by Congress and state legislatures: federal laws are enacted by Congress; state laws are enacted by state legislatures.
- Administrative law
 - Regulations; created by agencies such as the federal Food and Drug Administration
- Case law
 - Court decisions
 - Basis for *stare decisis*

American Criminal Law

- Statutory law:
 - Applied The Model Penal Code in 1962; defines general principles of criminal responsibility
 - Legal supremacy; the Supremacy Clause of the U.S. Constitution makes federal law the “supreme law of the land”
 - Ballot initiatives; direct democracy for writing or rewriting criminal statutes

Learning Objective 2

- Explain precedent and the importance of the doctrine of *stare decisis*.



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American Criminal Law

- *Stare decisis*: to stand on decided cases
 - Judges are obligated to follow precedents established within their jurisdiction.
 - The U.S. Supreme Court is not required to always follow its own precedent, though it often does.

Learning Objective 3

- Explain the two basic functions of criminal law.



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Purpose of Criminal Law

- Protect and punish: the legal function of the law
 - Maintain social order by protecting citizens from criminal harm
 - Harms to individual citizens' physical safety/property
 - Harms to society' s interests collectively
- Maintain and teach: the social function of the law
 - Expressing public morality
 - Teaching societal boundaries

Learning Objective 4

- Delineate the elements required to establish *mens rea* (a guilty mental state).



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Elements of a Crime

- *Corpus delicti* (body of the crime) consists of:
 - Guilty act: *actus reus*
 - Mental state: *mens rea*
 - Concurrence
 - Link between the act and the legal definition of the crime
 - Any attendant circumstances
 - The harm done by the crime

Elements of a Crime

- *Actus reus*
 - Legal duty
 - Plan or attempt

Elements of a Crime

- *Mens rea*
 - Categories of *mens rea*
 - Purposely
 - Knowingly
 - Negligence
 - Recklessness

Elements of a Crime

- Degrees of crime
 - First degree murder
 - Second degree murder
 - Types of manslaughter

Learning Objective 5

- Explain how the doctrine of strict liability applies to criminal law.

Elements of a Crime

- Strict liability
 - Protects public
 - Protects minors
 - Eliminates the possibility that wrongdoers could claim ignorance or mistake to absolve themselves of responsibility
- With strict liability, the defendant is guilty regardless of his or her state of mind at the time of the act

Elements of a Crime

- **Accomplice liability**
 - Person may be charged with and convicted of crime when he or she did not actually commit the crime, but acted as an accomplice
 - Can be convicted without intent, e.g., felony murder
 - May require dual intent to aid person who committed the crime and to provide help that would lead to the commission of the crime

Elements of a Crime

- Concurrence
 - The guilty act and the guilty intent must occur together.
- Causation
 - The criminal act caused the harm suffered.
- Attendant circumstances
 - Requirements of proof and intent
 - Hate crimes
- Harm
 - Damages resultant from the criminal act.
 - Inchoate offenses are conduct deemed criminal without actual harm being done.

Learning Objective 6

- List and briefly define the most important excuse defenses for crimes.



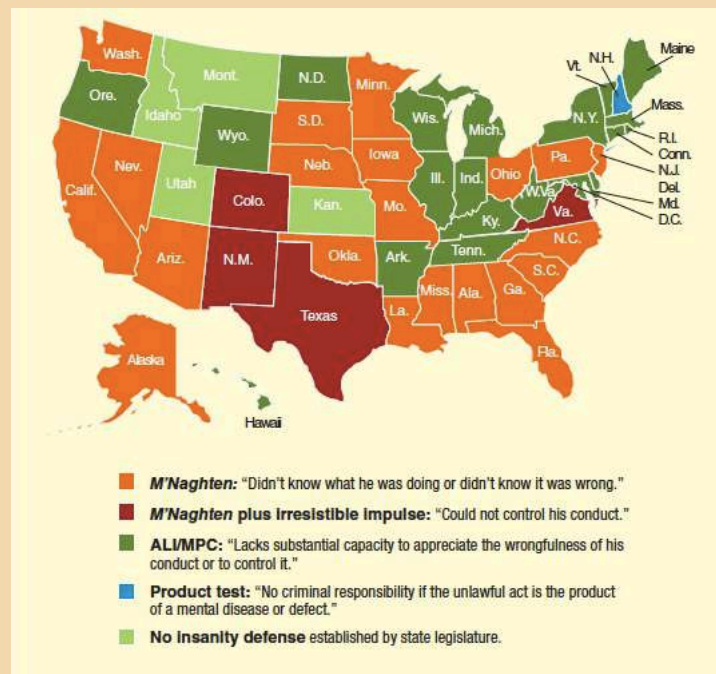
Reuters/Eduardo Munoz

Criminal Law Defenses

- Excuse defenses:
 - Infancy
 - Youthful offenders cannot understand the consequences of their actions.
 - Insanity
 - A person cannot have the state of mind to commit the crime if she/he did not know the act was wrong, or did not understand the quality of the act.
 - Intoxication
 - Mistake of law/fact

Learning Objective 7

- Discuss a common misperception concerning the insanity defense in the United States.



Criminal Law Defenses

- Insanity defense is only raised in approximately 1% of felony trials.
 - Successful only one out of four times it is raised
 - Difficult to prove insanity under the law
 - M’Naghten rule, ALI/MPC test, irresistible-impulse test
- “Guilty but mentally ill”: passed in several states
- Insanity vs. competence

Learning Objective 8

- Describe the four most important justification criminal defenses.

Justification Defenses

- Duress
 - The defendant is threatened with serious bodily harm, which induces him/her to commit the crime.
- Self-defense
 - The defendant must protect himself/herself from injury by another.
 - Duty to retreat: “stand your ground” statutes vs. duty to retreat
- Necessity
 - Circumstances required the defendant to commit the act.
- Entrapment
 - The defendant claims to have been induced by police to commit the act.

Discussion Questions: George Zimmerman

- What defense was used by George Zimmerman?
- Do you agree with the defense stated by the attorney in charge of Zimmerman?
- How could the prosecution have better addressed this defense?

Learning Objective 9

- Distinguish between substantive and procedural criminal law.



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Procedural Safeguards

- Substantive criminal law
 - Law that defines the acts that the government will punish
- Procedural criminal law
 - Procedures drawn from the Bill of Rights that are designed to protect the constitutional rights of individuals

Learning Objective 10

- Explain the importance of the due process clause in the criminal justice system.



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Procedural Safeguards

- Procedural due process is a provision in the Constitution that states that the law must be carried out in a fair and orderly manner.
- Substantive due process is a constitutional requirement that laws used in accusing and convicting persons of crimes must be fair.
- Role of the judicial system
- Society's best interests
- National security