

Elements of Criminal Law Under United States law, an **element of a crime** (or element of an offense) is one of a set of facts that must all be **proven** to convict a defendant of a crime. Before a court finds a defendant guilty of a criminal offense, the prosecution must present evidence that is **credible** and sufficient to prove beyond a **reasonable doubt** that the defendant committed **each element** of the particular crime charged. The component parts that make up any particular crime vary depending on the crime.

The basic components of an offense are listed below. Generally, each element of an offense falls into one or another of these categories. At common law, conduct could not be considered criminal unless a defendant possessed some level of **intention**—either purpose, knowledge, or recklessness—with regard to both the nature of his alleged conduct and the existence of the factual circumstances under which the law considered that conduct criminal. The basic components include:



1. **Mens rea** refers to the crime's mental elements of the defendant's **intent**. This is a necessary element—that is, the criminal act must be voluntary or purposeful. Mens rea is the mental intention (mental fault), or the defendant's state of mind at the time of the offense. In general, guilt can be attributed to an individual who acts "purposely," "knowingly," "recklessly," or "negligently."
2. All crimes require **actus reus**. That is, a criminal act or an unlawful omission of an act, must have occurred. A person cannot be punished for thinking criminal thoughts. This element is based on the problem of standards of proof.
3. In general, mens rea and actus reus must occur at the same time (concurrency)—the criminal intent must precede or coexist with the criminal act, or in some way activate the act.
4. Many crimes include an element that actual harm must occur—in other words, causation must be proved.

#### Possible Charges in this Case

In Texas, theft can be charged as a misdemeanor or a felony depending on the value of the property stolen.

- Theft is a **Class C misdemeanor** if the property stolen is worth less than \$100.
- If the value of the property stolen is worth \$100 or more, but less than \$750, it's a **Class B misdemeanor**.
- Theft is a **Class A misdemeanor** if the goods stolen is worth \$750 or more, but less than \$2,500.
- Theft is a **state jail felony** if the property stolen is worth \$2,500 or more, but less than \$30,000.
- Theft is a **felony of the third degree** if the property stolen is worth \$30,000 or more, but does not exceed \$150,000.
- It is a **second degree felony** if the property stolen is worth \$150,000, but does not exceed \$300,000.
- Theft is a **felony of the first degree** if the value of the property stolen is \$300,000 or more.

The penalties for a Class C misdemeanor include up to a \$500 fine, whereas a Class B misdemeanor is punishable by up to six months in jail and a fine not to exceed \$2,000. A Class A misdemeanor is punishable by up to a \$4,000 fine, and by up to one year in jail.

Felony punishment involves 6 months imprisonment to life behind bars, with fines up to \$10,000 under the [Texas Penal Code](#).



1. Did the Grinch act with malice aforethought in planning the crime? (premeditation; a general evil and depraved state of mind in which the person is unconcerned for the lives of others) What makes you think this?

2. What was the Grinch's motive?

3. What was his disguise?

4. Did he have an accomplice if so who was it?

5. Did he have the **opportunity** to commit the crime?



6. Were there any witnesses? If so who was the Who?

7. Where was the crime scene located?

8. Describe the physical evidence that you would be able to collect from the scene of the crime.



9. Explain the facts that relate to the elements of this crime:

- Mens rea (mental state/intent) ○ Did the Grinch show intent to commit this crime?

- Describe some things that make you think so.

- Actus reus (the criminal act that occurred)- ○ What was the criminal act the Grinch did?

- Concurrence (the intention occurred at the same time and/or caused the criminal act)- ○ Did the Grinch plan the criminal act?

- List 2 things that led you to believe it was a planned act.

- 1.

- 2.

- Causation (did actual harm occur?)- ○ Did the actions of the Grinch result in actual harm?

- If so, what harm occurred as a result of his actions?

10. What elements of the crime showed he had no remorse in committing it?



11. Is there enough evidence to charge the Grinch with a crime?

12. What crime would you charge him with, Theft of Property in the First Degree or Burglary in the Second Degree? Provide reasoning for your decision.

13. **If you were his defense attorney** what would be the defense you would propose in order to keep your client, the Grinch, from being prosecuted?

14. **If you were the prosecuting attorney**, what would you offer as proof he should be charged and prosecuted for the crime he committed?

15. Do you think the Grinch should be tried for his crime since he showed remorse in committing it? Why or why not?

16. Should Max be criminally charged as an accomplice? Why or Why not?