

Learn More About Criminal Law

Our criminal law has its roots in medieval England. Under early common law, criminal behavior was considered a breach of the King's peace, and therefore, considered harmful to society in general, which required governmental action. Only the major felonies, such as treason, rape, larceny, battery, kidnapping, murder, and arson were prosecuted and the only sentence was death. Today, criminal law is a vast and complex body of statutes, rules, and judicial decisions that touch nearly every aspect of our lives. State, federal, and municipal criminal codes have divided the old common-law felonies into many separate crimes and now provide an array of sentencing options. In addition, new crimes have been defined addressing drugs, automobiles, businesses, organized crime, computers and other modern situations.

A crime must be clearly defined in order to pass scrutiny under the federal Constitution, which prohibits the government from taking a person's life, liberty, or property without due process of law. A vague description of the crime or a lack of specific elements or intent needed for committing the crime leaves a person without knowledge of exactly what is prohibited. In order to be a crime, the prohibited conduct must include both a "mens rea" or intent and an "actus reus" or bad act. Accidentally hitting somebody when you draw back the baseball bat to swing at a ball is not a crime because it lacks required intent. Wishing someone would drop dead is not a crime because it lacks the bad act. Examples of crimes and topics of interest in criminal law include:

Drug violations are criminalized in both federal and state criminal justice codes, which typically list controlled substances, which are prohibited under any circumstances or may not be used except under a doctor's care. When a person uses one of these substances in violation of a criminal statute, he or she has committed a crime.

DWI/DUI means "driving while intoxicated" or "driving while under the influence" and refers to the crime of drunk driving. This crime usually includes driving while using drugs or alcohol and operating a car or other kind of motorized vehicle, such as a motorcycle or boat. Drunk driving is defined by each state's criminal code.

Federal jurisdiction refers to authority of a federal court to hear cases involving crimes charged under federal law. Crime has traditionally been the domain of individual states, but Congress is authorized through its powers under the commerce, postal, and taxing clauses in the Constitution to make criminal laws covering those areas. While a person can be prosecuted for the same incident under state and federal law, most often the choice of whether to bring an action in state or federal court is based upon resources available to investigate and prosecute the crime and on sentencing options.

Felonies are crimes punishable by over one year in prison. Most felonies are also punishable by a fine, but the critical determination for considering a crime a felony is the prison sentence.

Fraud is not a separate crime, but is an important part of property crimes such as embezzlement and false pretenses. The lawbreaker must knowingly and intentionally deceive the victim in some manner for the fraud element to be satisfied.

Grand jury proceedings are a method used by prosecutors to bring criminal charges against a criminal suspect. A prosecutor will often convene a grand jury when investigating complicated criminal matters.

Juvenile crimes are typically called delinquent acts and handled in the juvenile court system. The major purpose of the juvenile system is to rehabilitate the offender, and many sentences require counseling or other family intervention. Juvenile court jurisdiction typically ends when a person turns eighteen.

Misdemeanors are crimes with a punishment of less than one year in prison. Many crimes, such as theft, have degrees of seriousness with the most serious being felonies and the less serious being misdemeanors. Often, procedures used in misdemeanor prosecutions are abbreviated and in some cases, do not require a trial.

Parole and *probation* are used in the sentencing phase of the criminal-justice system. Parole refers to the condition of supervised release that occurs after an offender has spent time in prison. Probation is a sentence imposed instead of prison and is usually subject to terms and conditions designed to make the offender a law-abiding citizen.

Prosecution refers to the government's case against the lawbreaker. A prosecutor - the lawyer presenting the government's case - has complete discretion to decide whether to bring a charge against an alleged offender and must prove all charges beyond a reasonable doubt.

RICO refers to the federal Racketeer Influenced and Corrupt Organization Act passed in 1970 as part of a larger organized crime bill. The purpose of the act is to combat the infiltration of organized crime into legitimate businesses, but also it has been used to prosecute individuals other than just those associated with organized crime.

Sex offenses include much more than the common-law crime of rape, which historically was limited to unlawful sexual intercourse by a man against a woman through the use of force or the immediate threat of force. Most states prohibit lesser invasions, such as unwanted touching, as well as prosecution of spouses for sexual assault. In addition, sex offenses include crimes that are defined based on the status of the victim, such as a child or therapy patient.

Traffic violations may be crimes or may be classified as infractions, which are generally not considered part of the criminal law. In jurisdictions where they are crimes, they are typically considered the lowest level of misdemeanor and are only punished by a fine. However, some traffic violations can rise to the level of more serious crimes, such as vehicular homicide or leaving the scene of an accident.

Victims' rights refers to a body of emerging law that focuses on the needs and concerns of crime victims. Victims now have rights, for example, to information about the prosecution of the crime committed against them, to receive counseling and compensation, and to participate in the sentencing process.

White collar crimes refer to the group of property crimes typically committed to gain a business or professional advantage. White collar crimes include mail fraud, bank fraud, securities fraud, embezzlement, tax crimes, and environmental pollution.