



Criminal Law

The Basics



Branches of law

- Criminal
 - Wrongs against the state
- Civil
 - Private injury, mediated by state
- Administrative
 - Law of administrative or regulatory agencies



Legal categories of crimes

- Varies from state to state
- Crimes classified by severity of penalty
- Typical:
 - Violations/summary offenses
 - Misdemeanors
 - Felonies
 - Murder



Criminal vs. civil

	<u>Criminal</u>	<u>Civil</u>
Violation of:	State or federal criminal statutes	Torts, contracts, property laws
Who initiates?	State (State v. defendant) (Victim= complainant)	Individual (plaintiff v. defendant)
Standard of proof	Beyond a reasonable doubt	Preponderance of the evidence
Sanctions	Fines, probation, prison	Damages



Principles of criminal law

- Crime involves:
 - ¹legally proscribed ²conduct
 - that ³causes ⁴harm
 - ⁵coincides with ⁶blameworthy frame of mind
 - and carries with it ⁷punishment



Principles of criminal law:

Conduct

- *Actus reus*
 - “Bad act”
 - Voluntary behavior
 - Can include failure to act
 - Can include attempts



Principles of criminal law:

Blameworthy frame of mind

- *Mens rea*
 - “Guilty mind” (intent)
 - Volitional conduct
 - Exceptions:
 - Strict liability
 - Unintended consequences of intentional act
 - Transferred intent
 - More serious harm
 - Felony murder



Principles of criminal law

- Harm
- Concurrence
- Cause
- Legality
- Legally prescribed punishment



Criminal defenses

- Ignorance or mistake
- Intoxication
- Duress
- Necessity
- Self-defense
- Entrapment
- “Infancy”



Criminal defenses

- Insanity
 - Mental state at time of crime
 - Mental illness negates capacity to form intent
 - Success → “not guilty by reason of insanity” (NGRI)
 - Alternative: GBMI: guilty but mentally ill



Criminal defenses

- Insanity tests
 - M'Naghten test
 - Irresistible impulse
 - Durham rule
 - Substantial capacity
 - Appreciation test (Comprehensive Crime Control Act)



Due process rights

- 5th and 14th Amendments
 - Guarantee due process protection
- 4th Amendment
 - Protects against unreasonable searches and seizures
- 5th Amendment
 - Protection against self-incrimination and double jeopardy



Due process rights

- 6th Amendment
 - Right to counsel and fair trial
- 8th Amendment
 - Protection against excessive bail, excessive fines, cruel and unusual punishment



Fourth Amendment

- *Weeks v. United States* (1914)
 - “Exclusionary rule”
- *Mapp v. Ohio* (1961)
 - Extended exclusionary rule to state court
- Erosion of exclusionary rule
 - Good faith exception – *U. S. v. Leon* (1984)
 - Inevitable discovery – *Nix v. Williams* (1984)



Fifth Amendment

- *Miranda v. Arizona* (1964)
 - Must inform of rights before interrogation
- Exception
 - Immediate threat to public safety
- Double jeopardy
 - Cannot be tried twice *for same offense*



Sixth Amendment

- Right to counsel
 - *Gideon v. Wainwright* (1963)
 - Right to counsel extended to state court
- Right to speedy, public trial
- Right to trial by impartial jury
 - Not jury of “peers” – cross section of community



Eighth Amendment

- Excessive bail cannot be imposed
 - *United States v. Salerno and Cafero* (1987)
 - Preventive detention permissible
- No excessive fines



Eighth Amendment

- No cruel and unusual punishment
 - Death penalty (DP) not unconstitutional
 - 1972 – *Furman v. Georgia* - DP being applied in arbitrary manner → DP suspended
 - 1976 – *Gregg v. Georgia* – reinstated DP w/ new procedures
 - 1987 – *McCleskey v. Kemp* – To claim discrimination in DP case, have to show proof of racial bias in specific case