**C. Criminal Law and Criminal Procedure**

**I. Crime, offense, felony and misdemeanour**

**a) Text**

The area of criminal law is what every non-lawyer seems to be most interested in. It provides a source for many novels and movies. Which one of the suspects committed the crime? What were his motives? Who was the victim? The term lawyers use for crimes is offense. In the common law, and in the USA, offenses are divided into major crimes (called felonies) and minor crimes (called misdemeanours).

In common law jurisdictions, offenses are typically made up of three elements: (1) a criminal act (called the *actus reus*), (2) a criminal state of mind (called *mens rea*) and (3) concordance, meaning that the perpetrator had the required state of mind at the moment the crime was committed. Looking more closely at the *actus reus*, this can be either an action, an omission or possession. The *mens rea* can be a specific intention to commit a certain crime, a general intention, recklessness or gross negligence. If any of the elements of a crime is missing, there is no criminal liability. In very rare instances crimes can be committed regardless of the state of mind of the perpetrator. These crimes are called strict liability offenses.

If a defendant incurs criminal liability, he can still escape conviction and punishment if he establishes a defense. In his defense the suspect might say that he has acted in self-defense or defense of another, or that the victim has consented to his conduct. Defenses also include insanity, diminished responsibility, duress, and mistake. A criminal can similarly have his punishment mitigated if he pleads guilty, is a first time offender or was provoked by the victim to commit the offense.

Most of the time, the suspect is arrested after he has accomplished the crime. But even the attempt to commit a crime can be punished. In certain cases the suspect can be taken into custody and put into jail until the end of his trial, especially in serious and intentional crimes such as murder, rape or arson. A murder can be first-degree when it is committed in a particularly malicious way. Minor offenses are e.g. assault and battery or property damage. A theft that is committed in a supermarket e.g. is called shoplifting and if a thief enters someone else's house without permission in order to steal things it becomes a burglary. If violence or intimidation is used against a person while he takes away the person's property it is called robbery.

**Quelle:**

Linhart, Karin (2012), *Englische Rechtssprache: Ein Studien- und Arbeitsbuch*, 2. Auflage, München: Beck, S. 49