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CRIMINAL LAW

CRIMINAL LAW

Law that deals with **crimes** and their **punishment**

GOALS OF CRIMINAL LAW

The protection of the health, safety, and welfare of society

WHAT IS CRIMINAL LAW?

Concerned with “bad” conduct

Concerned with punishing behavior that jeopardizes the health, safety, and welfare of community

- Regardless of actual harm
- Regardless of financial loss

WHAT ISN'T CRIMINAL LAW?

Tort Law

- Concerned with **financial** loss
- “Bad” conduct is secondary concern
- Addresses personal harm, but monetary compensation is the goal
- Negligence, slander, libel, fraud

FEDERALISM IN CRIMINAL LAW

States regulate conduct of citizens, not the federal government

Powers granted to federal government (outlined in Constitution) are outside state control

FEDERALISM IN CRIMINAL LAW

States have power to create their own **criminal statutes**

Each state free to define crimes as long as they adhere to Constitution

- Pursuant to police powers clause of Tenth Amendment

FEDERALISM IN CRIMINAL LAW

Power of federal government to prosecute crimes is **restricted** by Constitution

- Most prosecution done by states

FEDERALISM IN CRIMINAL LAW

But federal government can prosecute certain kinds of crimes, including those...

- Of interstate commerce
 - Wire fraud across state lines, interstate prostitution, interstate kidnapping
- In areas of federal jurisdiction
 - Aircraft, ships on federal/navigable waters, and in DC
- That impact federal government activities
 - U.S. mail, federally-insured banks, on federal personnel, and violation of tax laws

CRIMINAL VS. CIVIL LAW

CRIMINAL

- Gov't has burden of proof of charges against defendant, beyond reasonable doubt
- Fines paid to gov't, restitution limited to loss

CIVIL

- Plaintiff has burden of proof by preponderance (quality, not quantity) of evidence
- Money paid to plaintiff, and damages assess against defendant

CRIMINAL VS. CIVIL LAW

CRIMINAL



CIVIL



PROSECUTORS & DEFENSE ATTORNEYS

Prosecutors:

- Employed by **county** in state
- Represent “the state”
- Job, in theory, is to seek justice, regardless of result
 - Regardless of whether their side is *right* or *wrong*
- Job, in practice, is to seek justice (a win) for “the state”

PROSECUTORS & DEFENSE ATTORNEYS

Defense Attorney:

- Pursuant to 6th Amendment:
 - For all criminal prosecutions, the accused shall have Assistance of Counsel for defense
 - If person cannot afford attorney, SCOTUS recognized that the accused should have one appointed

PROSECUTORS & DEFENSE ATTORNEYS

Defense Attorney:

- Employed by **county** in state
- Represent “the accused”
- Job, in theory (and practice), is to **zealously advocate on behalf of client**, within bounds of law
 - Vigorously challenge evidence of prosecution while seeking best result possible for client

TRIALS. JURY. JURISDICTION

Under 6th Amendment, we have right to:

- **Speedy trial**, by an
- **Impartial jury** (of peers), in a...
- **State/district** where offense was committed

TRIALS. JURY. JURISDICTION

If an offense is committed in several counties (or across state lines)...

- Prosecutor has burden of proving that **essential parts of crime** were committed in their jurisdiction

CONSTITUTIONALITY OF LAWS

Law is unconstitutional if it violates...

- State Constitution
- U.S. Constitution

CONSTITUTIONALITY OF LAWS

Due Process

- Safeguards against arbitrary denial of **life, liberty, property**
- Based on idea that law should be **fair**

CONSTITUTIONALITY OF LAWS

Due Process

- Fifth Amendment
 - Law must be fair with regard to legal rights owed to people
 - Attention to due process based on severity of crime, denial of life, liberty, property
- Fourteenth Amendment
 - Equal protection under law
 - Law must be fairly/equally **applied** to all individuals, regardless of race, sex, religion, socioeconomic status
 -

WHAT ARE SOME CRIMINAL
LAWS THAT MAY OR MAY NOT
BE EQUALLY APPLIED?

ILLEGALITY OF LAWS

U.S. Constitution outlines what can/can't be enacted



ILLEGALITY OF LAWS

BILLS OF ATTAINER

Piece of legislation (enacted by legislature) that declares someone guilty of a perceived crime

Allows government to punish someone without a trial

EX POST FACTO

Piece of legislation (enacted by legislature) that retroactively criminalizes actions that were NOT criminal when performed

Allows government to unjustly punish prior crimes



ELEMENTS OF A CRIME

1. *Actus reus*
2. *Mens rea*
3. Concurrence of *actus reus* and *mens rea*
4. Causation
5. Harm

ELEMENTS OF A CRIME

1. *Actus reus*

- **Act or omission** that is against/violates the law
- Most criminal offenses are acts, not omissions

ELEMENTS OF A CRIME

1. *Actus reus*

ACTS

You help a friend plan a murder

Your friend commits murder

You act as lookout during murder

OMISSIONS

You have kids, but don't feed, clothe, or provide shelter for them

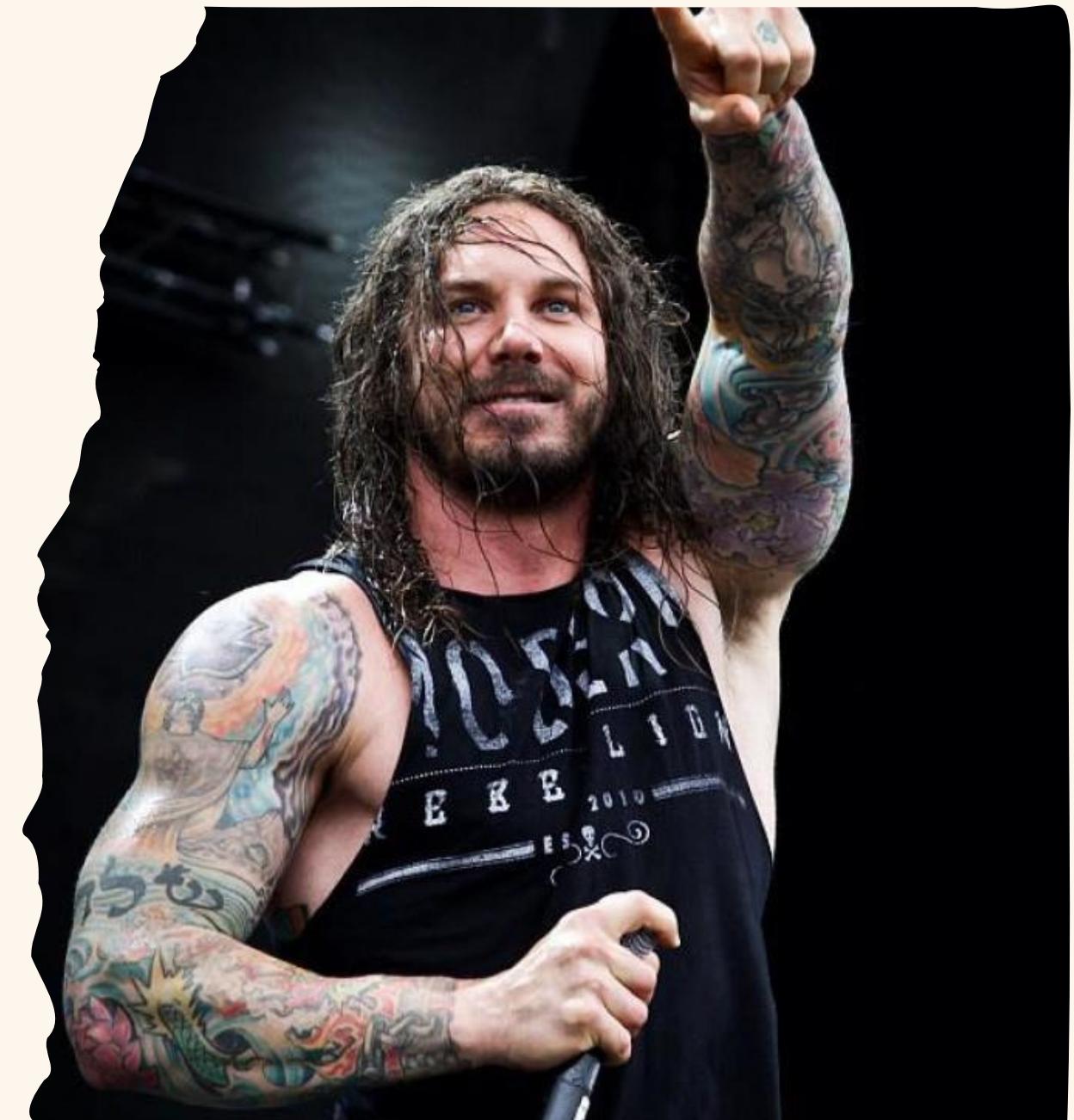
Firefighter choosing not to help with fire

Police officer not chasing suspect

ELEMENTS OF A CRIME

1. *Actus reus*

- Verbal acts can warrant criminal liability
 - **Solicitation** (asking others to commit crime)
 - **Criminal threat** (and ability to act)
 - **Persistent/Disruptive** speech
 - Providing **false information**



Tim Lambesis of As I Lay Dying convicted of murder-for-hire plot

ELEMENTS OF A CRIME

2. *Mens rea*

- Guilty “**state of mind**” or **intent** to commit crime
- Acting w/ criminal purpose

ELEMENTS OF A CRIME

2. *Mens rea*

Example:

- Go to bank, pull out gun, point it at bank teller, ask for money, pull trigger when gun pointed in her direction...
- ... intended to kill

ELEMENTS OF A CRIME

2. *Mens rea*

Model Penal Code helps outline mental states in commission of crimes... you can have “guilty mind” if you acted...

- **Purposely:** intended the result
- **Knowingly:** didn’t want to hurt someone, but knew you could, and did (even accidentally)
- **Recklessly:** did something with substantial unjustified risk, but did so anyway
- **Negligently:** didn’t do something, which created substantial unjustified risk

ELEMENTS OF A CRIME

3. *Concurrence of actus reus and mens rea*

- Guilty mind and the act **occurred at the same or close times**
 - Importantly, the State must demonstrate that this occurred

ELEMENTS OF A CRIME

4. *Causation*

- **Accused** is most probable, proximate cause of crime
 - State must follow chain of events to demonstrate

ELEMENTS OF A CRIME

4. *Causation*

Example:

- You cut break-line on someone's car...
 - They die from accident b/c they couldn't stop
 - They die from accident where they reversed (at 70mph) over overpass
 - They get in accident, get hurt, go to hospital and wait, and die from complications

ELEMENTS OF A CRIME

5. *Harm*

- To society, a person, or people

PARTIES TO A CRIME

*One person can be held criminally liable for their own or another person's actions **before, during, or after** commission.*

PARTIES TO A CRIME

PRINCIPAL

Anyone who commits the crime

ACCESSORY

Anyone who willingly participates (in some capacity) in the commission of crime

Anyone who assists (aids/abets) after commission of crime

PARTIES TO A CRIME

PRINCIPAL

Actually does the criminal act

ACCESSORY

Instigates, encourages, counsels, directs, supports

Loans weapon, prepares blueprints/diagrams,
looks out, drives getaway car

Can abet crime if they have knowledge of
principal's unlawful intent to commit crime

PARTIES TO A CRIME

Criminal Liability:

- All accomplices act as agent for all others, even if not agreed upon.



PARTIES TO A CRIME

Criminal Liability:

- Omission:
 - If purpose of failure to act was for aiding a crime
 - If person has legal duty to act
 - Only if reasonably safe and possible to protect victim



PARTIES TO A CRIME

Removing Criminal Liability:

- Accomplice/Accessory must take steps to undo aid given to principal
 - Inform principal of withdrawing support
 - Inform no longer wants crime to be committed
 - Attempt to make aid ineffectual

INCOMPLETE CRIMES

Solicitation:

- Words that create an inducement to another to commit crime
 - Begging, pleading, ordering, advising, tempting, urging, requesting, etc.
- Crime is in the asking, no matter of acceptance/rejection



INCOMPLETE CRIMES

Conspiracy

- **Agreement** between **2+ parties to commit unlawful act, or do lawful act by unlawful means**

INCOMPLETE CRIMES

Attempt

- Acts that, if uninterrupted, could/would have resulted in crime



ACTUS REUS OF ATTEMPT

Deciding when perpetrator moves from planning to actual commission

Last act

- Was last act commission of crime
 - Pulls out gun to rob bank

Physical proximity

- Without last act, how close was a person's actions to signal commission
 - Walks from car bank with bag and gun to rob

Dangerous Proximity

- Has not yet reached close enough physical proximity to commission
 - Parks car in bank parking lot and sits with gun and bag

Unequivocality

- Conduct alone manifests intent
 - Goes to bank area with gun and bag but doesn't approach bank

Substantial step

- Takes substantial step towards commission
 - Purchases gun

DEFENSES

Person may be excused of crime if *mens rea* was negated

Failure of proof

- State has failed to prove case against defendant

True defense

- Defendant admits to commission, but has excuse/justification
- Admits criminal liability, but **offers legally-recognized reason for crime** and **argues that they should be acquitted.**
- **Burden** now lies on **defendant** to show justification
- **Burden** also on **prosecution** to prove lack of justification