

Criminal Justice and the Rule of Law

Development of Law

- Codes of conduct have been around for centuries:
 - Code of Hammurabi
 - Mosaic Code of the Israelites

Development of Law

- Barbaric punishments and strange trials were common approaches to enforcing and interpreting laws in early world history
 - i.e., trial by ordeal

Development of Law

- Cesare Beccaria
 - The Classical School
 - Believed free will, logic, and rationality are central in decisions to commit crime
 - Punishment should be proportionate to crime
 - Jeremy Bentham
 - Hedonistic calculus
 - Minimize pain and maximize pleasure
 - Utilitarianism
 - Greatest good for the greatest number
 - Panopticon

Development of Law

- Guidelines for developing laws...
 - Laws must not be retroactive
 - Laws should remain stable
 - Rules and procedures for developing law need to be well-defined
 - The judiciary must remain independent of outside influences and political agendas
 - Discretion must be used fairly

Criminal Law

- Divided into two types

- Procedural law
 - Determines how people are treated as they progress through the criminal justice system
 - i.e., the Bill of Rights
- Substantive law
 - Designates what conduct is considered criminal
 - 1st degree murder vs. second degree murder vs. manslaughter

Criminal Law

- Two sources of criminal law
 - Common law
 - Based on case law established in court decisions/opinions and applies to subsequent/future cases
 - “*stare decisis*”
 - Constitutional law
 - Governmental powers, civil rights, and civil liberties established and protected by the U.S. Constitution

Civil Law

- Civil law...
 - Establishes guidelines for resolving disputes between individuals or organizations
 - Seeks compensation for the harmed party
 - Addresses estates(wills), contracts, class action lawsuits, and property disputes
 - Utilizes a burden of proof that is “beyond a preponderance of the evidence”

Administrative Law

- A legislative body delegates authority to commissions/boards who regulate activities controlled by written statutes
 - Occupational Safety and Health Administration (OSHA)
 - Food and Drug Administration (FDA)
 - Equal Employment Opportunity Commission (EEOC)
 - Environmental Protection Agency (EPA)
 - Federal Communications Commission (FCC)

- Federal Aviation Administration (FAA)

Elements of a Crime

- Three components
 - *Actus reus* (the act)
 - *Mens rea* (the mental intent)
 - Causation due to the convergence of the act and the intent
- These elements must be proven “beyond a reasonable doubt”

Types of Crimes

- Misdemeanors
 - Less serious crimes punishable by fine, forfeiture, or confinement for up to a year in jail
- Wobblers
 - Felony crimes that may be reduced to misdemeanors
- Felonies
 - More serious crimes that are typically punishable by confinement for a year or more in prison

Criminal defenses

- Legal defenses
 - Age (infancy) – children are unable to mentally grasp the consequences of their actions
 - Usually applies to children under the age of seven
 - Varies by jurisdiction
 - Alibi – the accused was not present at the scene
 - Duress – a person, under reasonable fear of harm is forced or coerced into committing a crime
 - Consent – the victim gave permission to the accused to act in an illegal manner against him/her
 - Entrapment – typically occurs when law enforcement convinces someone, through trickery or manipulation, to commit a criminal act
 - Criminal Defenses
- Legal defenses cont’d...
 - Intoxication – a person unknowingly consumes or is forced to consume drugs/alcohol

- Necessity – a person acts in a criminal manner to avoid greater harm from occurring
- Self defense – a person acted to protect himself or herself with a reasonable use of force
- Automatism – a person unconsciously acts in a criminal manner
- Insanity - a person suffering from mental illness is unable to control his/her actions
 - M’Naghten standard
 - Did the defendant understand what he was doing when he/she committed the crime?
 - Did the defendant know that his actions were wrong?

The Rule of Law

- The rule of law is a fundamental component of the criminal justice system
 - All government officers pledge to uphold and defend the U.S. Constitution
 - Law enforcement must follow the rule of law to maintain legitimacy and trust
 - The rule of law endeavors to balance maintaining law and order with ensuring the protection of citizens and individual freedoms

Due process

- The right to due process is guaranteed by the 5th & 14th Amendments to the Constitution
 - Protects citizens against governmental abuse of authority and grants citizens equal protection under the law
 - Guards against the unfair or arbitrary removal of life, liberty, and property
 - Limits police powers
 - Protects against double jeopardy
 - Ensures the right to remain silent
 - Protects against unreasonable searches and seizures
 - Grants the right to an attorney
 - Outlines proper arrest procedures
 - Probable Cause
- Probable cause is the standard necessary to make an arrest, obtain a warrant, or conduct a search.

- “Reasonable amount of suspicion, supported by circumstances sufficiently strong enough to justify a prudent and cautious person’s belief that certain facts are probably true.”

Searches and Seizures

- Supreme Court rulings governing searches
 - *Weeks v. United States (1914)*
 - Warrantless searches and seizures are unconstitutional
 - *Mapp v. Ohio (1961)*
 - Evidence obtained during an illegal search is inadmissible in court
 - “fruit of the poisonous tree” (exclusionary rule)
 - Exceptions to the “exclusionary rule”
 - *United States v. Leon (1984)*
 - Good faith
 - *Nix v. Williams (1984)*
 - Inevitable discovery

Searches and Seizures

- Supreme Court rulings governing searches cont’d...
 - *Terry v. Ohio (1968)*
 - “stop and frisk” based on reasonable suspicion
 - *Katz v. United States (1967)*
 - The right to privacy extends to phone conversations
 - Listening to a phone conversation is considered a search
 - *California v. Greenwood (1988)*
 - A warrant is not necessary to search trash outside one’s home

Warrants

- The 4th Amendment to the U.S. Constitution protects against warrantless searches and seizures
- Process for obtaining a warrant...
 - A police officer must articulate probable cause in an affidavit to a neutral and detached judge

- A judge's signature serves as a check on the police officers' decisions concerning who should be arrested and/or searched
- Warrants must define the amount of time necessary to conduct a reasonable search; contain specific information on the address and locations to be searched; and items expected to be found

Warrants

- Most search warrants are executed during the day and require the police to ID themselves
 - "Knock and talk" warrants
 - "No knock" warrants
 - Most often used when officer safety is a concern

Warrants

- Instances when search warrants are not necessary...
 - Consent
 - Plain view
 - Exigent circumstances ("hot pursuit")
 - i.e., suspect attempting to escape, potential harm to police or citizens, and destruction of evidence
 - Incident to a lawful arrest
 - Automobiles
 - "stop and frisk"
 - Regulatory searches

Arrests

- An arrest occurs when a reasonable person believes he/she is not free to leave
 - It is unclear whether the phrase "you are under arrest" is necessary and sufficient to constitute an arrest
- A lawful arrest entails taking a person into legal custody either under a valid arrest warrant or based on probable cause that the person committed the crime

Arrests

- Following an arrest, the suspect should be informed of his/her rights.
- *Miranda v. Arizona* (1966)

- Established the guidelines that must be followed when informing a suspect of his/her rights