Elements of Crime and Categories of Punishment

Law Enforcement I
Origins of the Law

- Common law
- Legislatures
- Courts
Age of Culpability

- Juvenile: 10–16 years of age
- Adult: 17 years of age and up
Crime Conviction Requirements

- Proof beyond a reasonable doubt
- All elements of an offense have to be proven
Forbidden conduct – this is determined by the government
  - Actus Reas

Culpable Mental State (CMS)
  - Mens Reas

Any result

Does not meet an exception
Culpable Mental States

- The attitude someone has when committing a crime, their intentions
There are four types of culpable mental states

- **Intentional** – conscious objective
- **Knowing** – aware with reasonable certainty
- **Reckless** – aware but conscious disregard of substantial and unjustifiable risk. Gross deviation from what a normal person would do.
- **Criminal Negligence** – should have been aware of the risk but was not
Instances When Crimes Go Without Punishment
Exceptions

- when a law does not apply to a person the prosecutor must prove that the person does not have a reason to do what they are doing

  - Example – the penal code says an off-duty police officer can carry a sidearm without a permit
Defense

- the person has an excuse to commit the crime
  - The prosecutor does not have to negate the existence of the defense
  - The defendant must prove this exists
  - If it exists, the court shall charge that this is a reasonable doubt and the person must be acquitted
Affirmative Defense

- similar to a defense
  - The prosecutor does not have to negate the existence of the defense; it’s up to the defendant
  - It must be proved by a preponderance of the evidence
  - Example – sexual assault/statutory rape and the three-year exception, if the victim is at least 14 and it is consensual
General Defenses Used in Trial
Insanity

- Affirmative defense
- At the time of the conduct
- Mental disease
- Did not know the conduct was wrong
Mistake of Fact

- Is a defense
- The perception of the facts by the actor is mistaken
- Has to be reasonable
Mistake of Law

- ignorance of a law is not an excuse for breaking that law
Intoxication

- voluntary intoxication is not a defense
Duress

- Affirmative defense
- Not guilty if forced to commit the crime because of the threat of death or serious bodily injury to himself or another
- Does not apply if the person intentionally, knowingly, or recklessly put himself in that position
Entrapment

- Opportunity vs. persuasion
- If the law enforcement officer induced the person to commit the crime then this defense applies
- Examples – bait cars and undercover agents
Punishments
Class C Misdemeanor

- Fine not to exceed $500
- Example – speeding ticket
Class B Misdemeanor

- Fine not to exceed $2000
- Up to 180 days in jail
- Or both
- Example – DWI
Class A Misdemeanor

- Fine not to exceed $4,000
- Up to one year in jail
- Or both
- Example – burglary of a vehicle, assault
State Jail Felony

- Fine up to $10,000
- 180 days to two years in jail
- Or both
- Example – unauthorized use of a motor vehicle (stealing a car)
Third Degree Felony

- Fine up to $10,000
- 2 to 10 years in prison
- Or both
- Example – forging money
Second Degree Felony

- Fine up to $10,000
- 2 to 20 years in prison
- Or both
- Example – aggravated assault, sexual assault
First Degree Felony

- Fine up to $10,000
- 5 to 99 years in prison
- Or both
- Example – murder, aggravated robbery, sexual assault
Capital Felony

- Life in prison or
- Death penalty
- Example – capital murder
Other Important Aspects
Criminal Attempt

- When a person intentionally tries to commit a crime, an act beyond mere preparation, which tends to affect the commission of a crime
- The punishment is one level below the crime the person is trying to commit
- Example – attempted murder
Criminal Conspiracy

- An agreement between two or more persons to commit a felony and any member of the group commits an overt act
  - Overt act – any act that works towards the commission of the offense (the act is not necessarily a crime in and of itself).
- The punishment is one level below the most serious crime planned
Resources