

Syllabus

Course Overview

In this course, you examine the historical development of criminal law and the rules of criminal procedure that govern its application. You will distinguish between the social and legal definitions of crime and dissect the various elements of crimes.

Course Competencies

(Read Only)

To successfully complete this course, you will be expected to:

- 1 Examine criminal law and procedure.
- 2 Articulate the historical development of criminal law.
- 3 Distinguish between legal and social parameters in criminal law.
- 4 Analyze the elements of a crime.
- 5 Communicate effectively in writing.

Course Prerequisites

CJ1000.

Syllabus >> Course Materials

Required

The materials listed below are required to complete the learning activities in this course.

Integrated Materials

Many of your required books are available via the VitalSource Bookshelf link in the courseroom, located in your Course Tools. Registered learners in a Resource Kit program can access these materials using the courseroom link on the Friday before the course start date. Some materials are available only in hard-copy format or by using an access code. For these materials, you will receive an email with further instructions for access. Visit the [Course Materials](#) page on Campus for more information.

Book

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson. ISBN: 9780134437392.

Library

The following required readings are provided in the Capella University Library or linked directly in this course. To find specific readings by journal or book title, use [Journal and Book Locator](#). Refer to the [Journal and Book Locator library guide](#) to learn how to use this tool.

- Alvarez, L. (2012, May 27). [Identity thieves looting tax returns: Criminals outwit IRS by filing return before real taxpayer does](#). *Dayton Daily News*, A17.
- Barkow, R. E. (2006). [Separation of powers and the criminal law](#). *Stanford Law Review*, 58(4), 989–1054.
- Cambridge Educational (Producer). (1993). [How a bill becomes a law](#) [Video]. Films on Demand.
- Carlton International Media (Producer). (2006). [Post-traumatic stress disorder](#) [Video]. Films on Demand.
- Lizza, R. (2013, December 16). [State of deception](#). *The New Yorker*, 89(41).
- Open University (Producer). (2010). [America and capital punishment](#) [Video]. Films on Demand.
- Samuels, A., O'Driscoll, C., & Allnutt, S. (2007). [When killing isn't murder: Psychiatric and psychological defences to murder](#). *Australasian Psychiatry*, 15(6), 474–479.
- Soma, J. T., Nichols, M. M., Rynerson, S. D., Maish, L. A., & Rogers, J. D. (2005). Balance of privacy vs. security: A historical perspective of the USA Patriot Act. *Rutgers Computer and Technology Law Journal*, 31(2), 285.
- [The slow death of the death penalty](#). *The Economist*, 411(8884), 27–29.
- Tsesis, A. (2016). [Balancing free speech](#). *Boston University Law Review*, 96(1), 1–54.
- Zadrozny, B. (2013, December 12). [Beyond "affluenza": Four more unusual defense strategies](#). *The Daily Beast*.

External Resource

Please note that URLs change frequently. While the URLs were current when this course was designed, some may no longer be valid. If you cannot access a specific link, contact your instructor for an alternative URL. Permissions for the following links have been either granted or deemed appropriate for educational use at the time of course publication.

- Francescani, C. (2012). [George Zimmerman: Prelude to a shooting](#). *Reuters*. Retrieved from <http://www.reuters.com/article/us-usa-florida-shooting-zimmerman-idUSBRE83O18H20120425>
- National Conference of State Legislatures. (n.d.). [Separation of powers – An overview](#). Retrieved from <http://www.ncsl.org/research/about-state-legislatures/separation-of-powers-an-overview.aspx>
- Wilson, L. [Barcoachguru]. (n.d.). [Crim Law #6: 2 Types of Homicide Part 2 of 2. | Transcript. | Transcript](#) Retrieved from <https://www.youtube.com/watch?v=VoOhUNzGpJs>
- Wilson, L. [Barcoachguru]. (n.d.). [Types of Homicide Murder Manslaughter Part 1 of 2. | Transcript. | Transcript](#) Retrieved from <https://www.youtube.com/watch?v=mootWqXeUbY>

Suggested

The following materials are recommended to provide you with a better understanding of the topics in this course. These materials are not required to complete the course, but they are aligned to course activities and assessments and are highly recommended for your use.

Integrated Materials

Many of your suggested books are available via the VitalSource Bookshelf link in the courseroom, located in your Course Tools. Registered learners in a Resource Kit program can access these materials using the courseroom link on the Friday before the course start date. Some materials are available only in hard-copy format or by using an access code. For these materials, you will receive an email with further instructions for access. Visit the [Course Materials](#) page on Campus for more information.

Book

Library

The following suggested readings may be available in the Capella University Library. To find specific readings by journal or book title, use [Journal and Book Locator](#). Refer to the [Journal and Book Locator library guide](#) to learn how to use this tool. If the full text is not available, you may be able to request a copy through the [Interlibrary Loan](#) service.

- Allenbaugh, M. H. (1999). What's your water worth?: Why we need federal fine guidelines for corporate environmental crime. *American University Law Review*, 48(4), 925–966.
- Carpenter, C. L. (2003). Of the enemy within, the Castle Doctrine, and self-defense. *Marquette Law Review*, 86(4), 653–700.
- Cassity, S. A. (2009). To die or not to die: The history and future of assisted suicide laws in the U.S. *Journal of Law & Family Studies*, 11(2), 467–475.
- Chang, S. (2005). The prodigal "son" returns: An assessment of current "Son of Sam" laws and the reality of the online murderabilia marketplace. *Rutgers Computer and Technology Law Journal*, 31(2), 430–458.
- Cohan, J. A. (2006). Homicide by necessity. *Chapman Law Review*, 10(1), 119–185.
- Hall, T. S. (2002). Legal functions and moral reasoning: Capital punishment and the mentally retarded defendant after *Penry v. Johnson*. *Akron Law Review*, 35(3/4), 327–370.
- Khanna, V. S. (1996). Corporate criminal liability: What purpose does it serve? *Harvard Law Review*, 109(7), 1477–1534.
- Logan, W. A. (2004). "Democratic despotism" and constitutional constraint: An empirical analysis of ex post facto claims in state courts. *William and Mary Bill of Rights Journal*, 12(2), 439–509.
- Lynch, J. P. (2006). Problems and promise of victimization surveys for cross-national research. *The University of Chicago Crime and Justice*, 34, 229–287.
- Mangiafico, J., & Westen, P. (2003). The criminal defense of duress: A justification, not an excuse — and why it matters. *Buffalo Criminal Law Review*, 6(2), 833–950.
- Maxfield, L. D., & O'Neill, M. E. (2004). Judicial perspectives on the federal sentencing guidelines and the goals of sentencing: Debunking the myths. *Alabama Law Review*, 56(1), 85–119.
- Merkl, T. A. (1999). The federalization of criminal law and double jeopardy. *Columbia Human Rights Law Review*, 31(1), 175–207.
- Moore, M. S. (2007). Causing, aiding, and the superfluity of accomplice liability. *University of Pennsylvania Law Review*, 156(2), 395–452.
- Morrissey, K. R. (1989). Comment: Separation of powers and the individual. *Brooklyn Law Review*, 55(3): 965–987.
- Pastrok, C. (2004). Identity theft statutes: Which will protect Americans the most? *Albany Law Review*, 67(4), 1137–1157.
- Sigler, H. J. (2009). Federal criminal conspiracy. *American Criminal Law Review*, 46(2), 589–620.
- Simons, K. W. (2002). Does punishment for "culpable indifference" simply punish for "bad character"? Examining the requisite connection between mens rea and actus reus. *Buffalo Criminal Law Review*, 6(1), 219–315.
- Smith, C. E. (1997). The impact of new justices: The U.S. Supreme Court and criminal justice policy. *Akron Law Review*, 30(1), 55–71.
- Tonry, M. (2005). The functions of sentencing and sentencing reform. *Stanford Law Review*, 58(37), 37–66.
- Toomin, M. P. (2008). Second degree murder and attempted murder: CLEAR's efforts to maneuver the slippery slope. *The John Marshall Law Review*, 41(3), 659–700.
- Wolfe, C. (2000). Forum on public morality: Public morality and the modern Supreme Court. *The American Journal of Jurisprudence*, 45, 65–92.

External Resource

Please note that URLs change frequently. While the URLs were current when this course was designed, some may no longer be valid. If you cannot access a specific link, contact your instructor for an alternative URL. Permissions for the following links have been either granted or deemed appropriate for educational use at the time of course publication.

- ABC News. (n.d.). [Stand your ground law news](#). Retrieved from <http://abcnews.go.com/topics/news/issues/stand-your-ground-law.htm>
- American Bar Association. (n.d.). [How courts work](#). Retrieved from http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/juryinstruct.html
- [Bureau of Justice Statistics](#). (2016). Retrieved from <http://www.bjs.gov/>
- Centers for Disease Control and Prevention. (2015). [Assault or homicide](#). Retrieved from <http://www.cdc.gov/nchs/FASTATS/homicide.htm>
- [Central Intelligence Agency](#). (n.d.). Retrieved from <https://www.cia.gov/index.html>

- CNN. (2009). Anti-abortion activist can't use "necessity defense" in slaying. Retrieved from <http://www.cnn.com/2009/CRIME/12/22/kansas.doctor.killed/index.html>
- Department of Homeland Security. (n.d.). FEMA – Ready: Prepare. Plan. Stay Informed. Retrieved from <https://www.ready.gov>
- Doyle, C. (2014). Perjury under federal law: A brief overview. *Congressional Research Service*. Retrieved from <http://www.fas.org/sgp/crs/misc/98-808.pdf>
- HG.org Legal Resources. (n.d.). Criminal law: Guide to penal law. Retrieved from www.hg.org/crime.html
- Los Angeles County District Attorney's Office. (n.d.). Victim services. Retrieved from da.lacounty.gov/victims
- Lourdeau, K. (2004). Testimony: Innocent images national initiative. Retrieved from <https://www.fbi.gov/news/testimony/combating-the-exploitation-of-children-through-peer-to-peer-network>
- Martin, J. (1998). The insanity defense: A closer look. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/wp-srv/local/longterm/aron/qa227.htm>
- Morrison, K., (2007). Susan Polk case: Murder or self-defense? *NBC News*. Retrieved from www.msnbc.msn.com/id/14095385/ns/datetime_nbc
- Morton, R.J., & Hilts, Mark. A. (Eds.). (n.d.). Serial murder: Multi-disciplinary perspectives for investigators. [Monograph]. *The FBI: Reports and Publications*. Retrieved from <https://www.fbi.gov/stats-services/publications/serial-murder/serial-murder-1>
- National Archive of Criminal Justice Data. (n.d.). National crime victimization survey resource guide. Retrieved from www.icpsr.umich.edu/NACJD/NCVS/
- National Rifle Association - Institute for Legislative Action. (n.d.). Retrieved from <https://www.nraila.org/>
- Supreme Court of the United States. (n.d.). Retrieved from <http://www.supremecourt.gov/>
- The FBI: Federal Bureau of Investigation. (n.d.). Economic espionage: Protecting America's trade secrets. Retrieved from <https://www.fbi.gov/about-us/investigate/counterintelligence/economic-espionage-brochure>
- The FBI: Federal Bureau of Investigation. (n.d.). Federal civil rights statutes. Retrieved from <https://www.fbi.gov/investigate/civil-rights/federal-civil-rights-statutes>
- The FBI: Federal Bureau of Investigation. (n.d.). Hate crimes. Retrieved from www.fbi.gov/hq/cid/civilrights/hate.htm
- The FBI: Federal Bureau of Investigation. (n.d.). Kidnappings & missing persons. Retrieved from <https://www.fbi.gov/wanted/kidnap>
- The United States Department of Justice. (n.d.). Computer crime and intellectual property section (CCIPS). Retrieved from <https://www.justice.gov/criminal-ccips>
- U.S. Department of Energy. (n.d.). National Security and Safety. Retrieved from www.energy.gov/public-services/national-security-safety
- U.S. Department of Justice Office of Justice Programs. (1997). A policymaker's guide to hate crimes. [Monograph]. Retrieved from <https://www.ncjrs.gov/pdffiles1/bja/162304.pdf>
- U.S. Department of Justice Office of Justice Programs. (2007). A family resource guide on international parent kidnapping. Retrieved from www.ncjrs.gov/pdffiles1/ojdp/215476.pdf
- U.S. Department of Justice Offices of the United States Attorneys. (n.d.). 754. Criminal versus civil contempt. *Criminal Resource Manual*. Retrieved from <http://www.justice.gov/usam/criminal-resource-manual-754-criminal-versus-civil-contempt>
- U.S. Department of Justice Offices of the United States Attorneys. (n.d.). 1732. Protection of government processes – constitutionality – 18 U.S.C. 1512(d). Retrieved from <https://www.justice.gov/usam/criminal-resource-manual-1732-protection-government-processes-constitutionality-18-usc-1512d>
- U.S. Department of Justice Offices of the United States Attorneys. (n.d.). 645. Entrapment—Elements. Retrieved from <https://www.justice.gov/usam/criminal-resource-manual-645-entrapment-elements>
- U.S. Department of Justice. (n.d.). Drug Enforcement Administration (DEA). Retrieved from www.dea.gov/index.shtml
- U.S. Supreme Court. (2007). District of Columbia et al. v. Heller. Retrieved from <http://www.scotusblog.com/wp-content/uploads/2008/06/07-2901.pdf>
- United States Courts. (n.d.). Retrieved from <http://www.uscourts.gov/>
- United States Sentencing Commission. (n.d.). Retrieved from <http://www.ussc.gov/>
- Violence Policy Center. (2001). A deadly myth. Retrieved from www.vpc.org/studies/myth.htm
- Walker, L. E. (2009). Battered woman syndrome. *Psychiatric Times*. Retrieved from <http://www.psychiatrytimes.com/trauma-and-violence/battered-woman-syndrome>

Optional

The following optional materials are offered to provide you with a better understanding of the topics in this course. These materials are not required to complete the course.

External Resource

Please note that URLs change frequently. While the URLs were current when this course was designed, some may no longer be valid. If you cannot access a specific link, contact your instructor for an alternative URL. Permissions for the following links have been either granted or deemed appropriate for educational use at the time of course publication.

- U.S. Department of Education. (n.d.). Family Educational Rights and Privacy Act (FERPA) <https://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- U.S. Department of Health & Human Services. (n.d.). Summary of the HIPAA privacy rule <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

Unit 1 >> The Nature and History of Criminal Law

Introduction



Competency 1: Examine criminal law and procedure.

Competency 2: Articulate the historical development of criminal law.

Introduction: The Historical Development of Criminal Law

Unit 1 is an overview of the development and purposes of criminal law. This unit will help you understand how criminal laws reflect the values of society, and how they have evolved over time. It will help you describe the role of common law in modern criminal law and explain the differences between procedural and substantive criminal law, as well as the various sources of law including the principle of *stare decisis*. You will also become familiar with the purpose and goal of criminal law, which is to maintain an orderly society through a set of rules applicable to everyone.

Our system of criminal law should be viewed not as a set of rules for memorization, but as a cluster of ideas, principles, and values, about which reasonable persons can and do disagree. The system is not fixed in stone; it is changing and flexible. Understanding our concept of justice requires a thoughtful comprehension of the historical background, social values, moral standards, and political realities that give direction to our system.

There are many different types of crimes including felonies, misdemeanors, and infractions, violations, or petty offenses (depending upon how the legislature has named those offenses). Crimes are either *mala in se* or *mala prohibita*. *Mala in se* crimes are those acts that are not only crimes but are also generally considered as morally wrong; for example, rape, murder, and theft. Generally, all common law crimes are considered *mala in se* crimes. *Mala prohibita* crimes are those that are not considered morally wrong even though they are crimes; for example, insider trading or speeding. *Mala prohibita* crimes are wrong simply because they are prohibited by statutes.

Unit 1 provides the foundation for the coming units. From here, you will build upon specific areas and points of today's criminal law. The U.S. Constitution sets the stage for American government and the laws we follow. They have evolved over time to form our modern U.S. legal system. This unit's reading focuses on the history and philosophical perspectives of law in the United States, as well as how this has affected the evolution of our current system.

Criminal law is the foundation upon which law enforcement officers operate, from a substantive standpoint. Criminal law is put into action with criminal procedure rules, which are enacted by the legislature. Courts interpret these laws and rules, and the interpretations serve as a guide for law enforcement actions and related parameters of those actions. Mistakes can impact the ability to successfully prosecute criminal offenders.

There are four main sources of criminal law we will focus on in this unit: constitutional, statutory, common law, and the Model Penal Code. The U.S. Constitution and state constitutions provide the authority for the government to create laws through the legislative process and we will explore the difference between federal laws and state laws, which are created through the inherent police authority the states have. Statutes, ordinances, and regulations make up the statutory laws. The material in this unit will provide a basis for understanding how a legislative body may determine what to call its set of criminal laws, how they are organized, and the elements that make up a particular law.

The common law still has an influence in today's legal system. For example, many state legislatures have a specific provision that recognizes the enforceability of common law through its courts, provided that law is not inconsistent with the Constitution or laws of that state. Also, the common law provides a persuasive authority in the interpretation of the criminal law. Finally, the Model Penal Code, created by the American Law Institute, provides us with a guide for legislative bodies. The Model Penal Code, is not binding unless it is adopted and passed by the government through the legislative process.

References

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u01s1 - Studies

Readings

In your *Criminal Law Today* text, read the following:

- Chapter 1: "The Nature and History of Criminal Law," pages 1–38.

Use the Capella library and the Internet to read the following:

- Barkow, R. E. (2006). Separation of powers and the criminal law. *Stanford Law Review*, 58(4), 989–1054.
- National Conference of State Legislatures. (n.d.). Separation of powers – An overview. Retrieved from <http://www.ncsl.org/research/about-state-legislatures/separation-of-powers-an-overview.aspx>

Films on Demand Video

- Cambridge Educational (Producer). (1993). How a bill becomes a law [Video]. Films on Demand.
 - Running time: 27:40.

Multimedia

- View The U.S. Government's Judicial, Legislative, and Executive Branches interactive.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas in this unit, read the following recommended articles:

- Morrissey, K. R. (1989). Comment: Separation of powers and the individual. *Brooklyn Law Review*, 55(3): 965–987.
- Smith, C. E. (1997). The impact of new justices: The U.S. Supreme Court and criminal justice policy. *Akron Law Review*, 30(1), 55–71.

To get an overview of the functions of the court system and criminal law, take some time to glance through these suggested websites:

- Supreme Court of the United States. This site focuses on the characteristics of the Supreme Court, oral arguments, merits briefs, and so on.
- United States Courts. This site looks at the U.S. Supreme Court, U.S. Courts of Appeals, U.S. District Courts, and U.S. Bankruptcy Courts.
- Criminal law: Guide to Penal Law. This site from HG.org Legal Resources provides an overview of criminal law.

u01s2 - Your Online ePortfolio

Online ePortfolios serve two key purposes: 1) to support learning and reflection, and 2) to be used as a showcase tool. Your learning journey can be documented, and ePortfolios contribute to lifelong learning and growth through reflection and sharing. Online ePortfolios can also be shared with employers and peers to present artifacts that demonstrate your accomplishments at Capella.

Using ePortfolio to Prepare for Your Capstone

Your program may culminate in a capstone course. At that time you may be required to show evidence of your learning throughout the program by referring to multiple assessments that you have created. You will be telling a story about your learning throughout the program using artifacts you have collected during many of these courses.

Using ePortfolio to Build Your Career

As you are preparing to tell your story in the professional world, leverage your ePortfolio artifacts to demonstrate the knowledge and competencies you have gained through your program in professional conversations, performance reviews, and interviews.

To do that, reflect on the knowledge and skills you have gained from your courses and the elements you have put in your portfolio, along with how you have already applied these things to your professional life or how you might apply them in the future.

Next, create your story or talking points to tell your professional story.

Saving Your Documents to ePortfolio

You will need a place to store your documents in an organized fashion so that you can access them at a later date. Do not rely on the courseroom for storage, as you will lose access to the courseroom after you have completed the course. Capella uses a cloud-based portfolio platform to facilitate your organization of the artifacts you create throughout your program.

To make an online portfolio useful, it is essential that it is organized clearly and that important files of any format are accessible. Read the [Online ePortfolio Guidelines \[PDF\]](#) to ensure you set up your online portfolio correctly. For more information on ePortfolio visit the Campus [ePortfolio](#) page.

Privacy Statement

Capella complies with privacy laws designed to protect the privacy of personal information. While you may voluntarily share your own information publicly, you are obligated to protect the personal information of others that may be associated with your academic or professional development. Before sharing information and material in any ePortfolio that is set up to be shared externally to your program at Capella, please consider privacy obligations in relation to protected populations who may be included or referenced in your academic or clinical work. Refer to the [Family Educational Rights and Privacy Act \(FERPA\)](#) and/or the [Health Insurance Portability and Accountability Act \(HIPAA\)](#) if you have specific questions or concerns about your choices.

u01d1 - Sources of Criminal Law

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 2: Articulate the historical development of criminal law.

Introduction

Understanding criminal law requires some knowledge about the sources of criminal law. These sources include constitutions, statutes, ordinances and regulations, common law, and the Model Penal Code. The U.S. Constitution, which is the highest form of law in our country, sets limits on the nature and extent of criminal law that the government can enact and serves as a guard of personal liberties. Common law still has an influence on today's legal system. For instance, many state legislatures have a specific provision that recognizes the enforceability of common law through its courts, provided that the law is not inconsistent with the Constitution or laws of that state. In addition, the common law provides a persuasive authority in the interpretation of the criminal law. The Model Penal Code is a code of criminal laws intended to standardize general provisions of criminal liability, sentencing, defenses, and the definitions of specific crimes between and among the states. The Model Penal Code is not a law and has no binding effect. Rather, it is designed to serve as a model code of criminal law for all states.

After reviewing the different sources of criminal law, select two sources of criminal law. Then, in your main post, complete the following:

- Explain how the two sources of criminal law you selected contributed to the evolution of modern criminal law.
- Articulate a working example of each source of law to illustrate your point.
- Explore how social and legal aspects come into play in the context of your selections and the development of criminal law in modern day society.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Articulate working examples of sources of criminal law.
- Competency 2: Articulate the historical development of criminal law.
 - Explain how sources of law have contributed to the evolution of modern criminal law.
 - Explore how social and legal aspects impact the development of criminal law in modern day society.

Response Guidelines

Interact with other learners about the sources of law you selected, and address the following:

- Do you agree with their assessment of how the sources of law selected have contributed to the evolution of modern criminal law?
- Share your perspective about the working examples articulated. Did you have similar findings? Why or why not?
- What similarities and differences did you note regarding your understanding of how social and legal aspects come into play in the development of criminal law in modern day society and that of other learners?

Respond to the posts of at least two of your classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

G.R.E.A.T. Discussion Guidelines

u01d2 - Criminal Versus Civil Law

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

Laws consist of enforceable rules that govern relationships. It is important to understand the evolution of criminal law in order to understand the current criminal law from the standpoint of the laws and the policies behind the enactment of the laws. Laws are broadly classified into criminal laws and civil laws. Both regulate the conduct of people and often overlap. To fully understand different types of laws, it is necessary to understand the distinctions between civil and criminal law. Civil and criminal law can be distinguished on several critical levels. Understanding what each area of law governs and how, and by what entity, they are prosecuted is the foundational start point for any legal research. Therefore, it is important to grasp how each type of case is processed through the legal system, including any challenges that may arise in the process.

In your main post, complete the following:

- Explain the difference between civil law and criminal law in terms of how the rules are applied, the similarities and differences, and the consequences that may result when a law is broken.
- Explore an incident that gives rise to both civil liability and criminal responsibility.
- Illustrate how the civil and criminal aspects of the incident might vary, including but not limited to, a burden of proof standpoint.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Explain the difference between civil law and criminal law.
 - Explore an incident that gives rise to both civil liability and criminal responsibility.
 - Illustrate how the civil and criminal aspects of an incident might vary.

Response Guidelines

Interact with other classmates about the difference between civil law and criminal law. In your response, address the following:

- Did you share similar perspectives about the consequences that may result when a law is broken? Why or why not?
- Did you agree with the similarities and differences highlighted by other learners' regarding the civil and criminal processes as they relate to the incidents shared?
- What points made by other learners reinforced your understanding of the importance that civil and criminal incidents follow different legal processes?

Course Resources

CJ Discussion Scoring Guide

G.R.E.A.T. Discussion Guidelines

Unit 2 >> Criminal Liability, the Essence of Crime, and the Concept of Crime

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 2: Articulate the historical development of criminal law.

Competency 4: Analyze the elements of a crime.

Competency 5: Communicate effectively in writing.

Introduction: Criminal Acts and the Criminal Process

In a criminal case, an accused is charged with violating a rule of society. The individual is prosecuted by a government official, usually elected, who must introduce evidence to satisfy the jury (or judge) of each and every element of the crime or crimes charged. In accordance with the Constitution, the accused is presumed innocent. This is especially important in the context of the right against self-incrimination, the right to confront and cross-examine witnesses, and the court's instruction to the jury, should the accused choose to invoke his or her rights.

There are two requisites for each crime—the required act or failure to act (*actus reus*) and the required mental state (*mens rea*). The term *actus reus* literally means "guilty act." The justification of requiring *actus reus* is to prevent punishing someone solely on the basis of his or her thoughts. There is an old maxim that relates to this that says that, while you cannot be punished for your evil thoughts, you may be punished for any actions that result from your evil thoughts. An additional justification for *actus reus* relates to the idea that criminal law should not be so broadly reaching as to include individuals who entertain criminal plans only in their mind, but never permit their conduct to be guided by those thoughts.

The practical reason for the requirement of *actus reus* is that, until an individual *does* something, there is no objective proof of how serious he or she was about any particular thoughts or plans. The act necessary to constitute the crime varies with each crime and is generally specified in the statute that establishes it. The general concept of *mens rea* is that criminal sanctions should not be imposed on those who innocently cause harm. A good way to understand *mens rea* is to ensure you are familiar with the four mental states that qualify as *mens rea*—general intent, specific intent, transferred intent, and constructive intent.

The *actus reus* and the *mens rea* need to be linked in time. For example, if an individual decided to kill someone one week and then decided against it, but accidentally killed the person that following week, this would not be considered murder because the intent to kill and the act did not exist together at any one time. *Corpus delicti* means the body of the crime. The prosecution must establish that a crime (as defined by the legislative body with elements of the offense) has been committed.

The fact that certain conduct is considered immoral or harmful does not necessarily mean that the conduct constitutes criminal behavior. According to the principle of legality, there is no crime unless the legislature makes the conduct a crime. One purpose of this principle is to prevent the government from punishing a person for conduct that was lawful when it was performed. The second aspect of this principle is that government must give prior notice of what conduct it considers a crime. The Constitution prohibits *ex post facto* laws, which means those laws that would retroactively criminalize actions that were innocent when they were done. The *ex post facto* limitation also prohibits any law that aggravates a crime (that is, makes it more serious than it was when committed) or inflicts a greater punishment than the law allowed when the crime was committed. The third aspect of the legality principle is the prohibition against bills of attainder. A bill of attainder is a special law that declares a specific person to be guilty of a crime and thus subject to punishment without a trial or conviction.

Another constitutional restraint on the criminal law process protecting a person from being tried twice, within the same jurisdiction, for the same offense is the rule against double jeopardy. This rule only applies in criminal cases because a civil suit does not place one in jeopardy in the first place. Finally, the dual sovereign doctrine allows criminal prosecution in the both state and federal courts, or by two or more states, provided each can establish jurisdiction.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u02s1 - Studies

Readings

In your *Criminal Law Today* text, read the following:

- Chapter 2, "Criminal Liability and the Essence of Crime," pages 39–65.
- Chapter 3, "Expanding the Concept of Crime," pages 66–91.

Multimedia

- View the [Violent People, Violent Acts](#) interactive timeline. This timeline will provide an introduction to criminal acts and criminal minds to illustrate offenders throughout history.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas in this unit, read the following recommended articles:

- Simons, K. W. (2002). Does punishment for "culpable indifference" simply punish for "bad character"? Examining the requisite connection between mens rea and actus reus. *Buffalo Criminal Law Review*, 6(1), 219–315.
- Logan, W. A. (2004). "Democratic despotism" and constitutional constraint: An empirical analysis of ex post facto claims in state courts. *William and Mary Bill of Rights Journal*, 12(2), 439–509.
- Merkl, T. A. (1999). The federalization of criminal law and double jeopardy. *Columbia Human Rights Law Review*, 31(1), 175–207.

Take some time to glance through the following suggested websites:

- U.S. Department of Justice, Offices of the United States Attorneys. (n.d.). [1732. Protection of Government Processes – Constitutionality – 18 U.S.C. 1512\(d\)](#).
- American Bar Association. (n.d.). [How Courts Work](#).

u02a1 - Precedent and Causation in Law Enforcement

Competencies Addressed in This Assignment

- Competency 1: Examine criminal law and procedure.
- Competency 2: Articulate the historical development of criminal law.
- Competency 5: Communicate effectively in writing.

Overview

For criminal liability to exist, the elements of the offense must be proven, such as the criminal mental state and the criminal act. However, other considerations also come into play, such as the link between the act and the resulting harm. For example, factual cause is insufficient for criminal liability, which can be examined through the "but for" test. Instead, for legal cause to exist, the harm must be the proximate result of the act. Proximate cause is present when the resulting harm is the direct and probable result of the criminal act. In the context of foreseeability, the precise harm or injury need not have been anticipated by the actor, but only that which is reasonable in light of all the facts and circumstances surrounding a particular act. Factual causality can be determined through the *sine qua non* test, which essentially means, "without this, that would not be."

Instructions

In this assignment, you will explain the concept of precedent, address how precedent has played a part in the evolution of criminal law, and how precedent-setting cases have provided interpretation for criminal law and criminal procedure in conjunction with the impact of these rulings on law enforcement in the context of causation. Complete the following:

- Explain the concept and the role of precedent, in a criminal procedural and criminal law context, as they pertain to law enforcement officers' handling of criminal cases.
- Summarize two precedent-setting cases in the areas of criminal law and criminal procedure dealing with the issue of causation.
- Illustrate how your selected cases impact law enforcement officers.
- Explore why it is important for law enforcement officers to understand the impact of precedential cases.

How to Submit Your Assignment

This is a two-step process. You are required to submit a draft of your paper to SafeAssign. Once you review your results and make any needed changes, submit your paper for grading.

1. **SafeAssign:** Drafts of all assignments must be submitted to SafeAssign.
 0. Access SafeAssign through the link in the courseroom.
 - a. Submit your assignment using the draft folder.
 - b. Review the returned report and make changes as needed. (You may ignore any template matches.)
2. **Submit Your Assignment for Grading:** See the Campus tutorial, Submit an Assignment (linked in Resources), for more information.
 0. Click on the linked assignment heading.
 - a. Attach your file.
 - b. Click submit.
 - c. You will know your submission was successful by viewing the Submitted section of the My Grades area.

Additional Requirements

- **Written communication:** Must be free of errors that detract from the overall message.
- **Resources and citations:** Format according to APA guidelines.
- **Required page count:** 3–4, not including the cover page or the references page.
- **Font and font size:** Times New Roman, 12 point.

Course Resources

[Legal Research Guide](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

[The Writing Center](#)

[Smarthinking](#)

[SafeAssign](#)

[Submit an Assignment \[PDF\]](#)

[APA Paper Template \[DOC\]](#)

u02d1 - Concurrence and Burden of Proof

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 4: Analyze the elements of a crime.

Introduction

Criminal liability is dependent on the concurrence of a criminal mental state with the commission of a criminal act; thus, the attempt to commit a criminal act may be sufficient. A substantial step made in furtherance of the commission of an offense must be taken, rather than the mere planning or preparation to commit a criminal offense. Therefore, it can be a fine line as to whether one incident may be the subject of criminal liability while the other is not. Concurrence requires that a criminal act occur at the same time the actor possessed the required criminal mental state. To convict a defendant of a given crime, prosecutors must prove to a judge or jury that all the statutory elements of a crime are present. The burden of proof is beyond a reasonable doubt. If even one statutory element of an offense cannot be established beyond a reasonable doubt, it is concluded that criminal liability will not have been demonstrated, and the defendant will be found not guilty.

For this discussion, you will consider the concept of burden of proof in the context of concurrence by responding to the following in your main post:

- Explain the advantages and disadvantages of our adversarial system regarding the burden of proof falling on the government to prove the concurrence of the criminal act with a criminal mind.
- Evaluate whether a fact-finder can look into the mind of an accused to determine the way that person acted at the time of committing the crime.
- Analyze whether the elements of concurrence are met and whether a man can be prosecuted for his wife's death in the following situation: the man has been thinking about killing his wife and thoughtfully plans the details of how he is going to carry out the crime, and then his wife is killed in a car accident that he had nothing to do with.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Explain the advantages and disadvantages of our adversarial system regarding the burden of proof in the context of concurrence.
- Competency 4: Analyze the elements of a crime.
 - Evaluate whether a fact-finder can look into the mind of an accused at the time of a criminal act.
 - Analyze whether the elements of concurrence are met in a criminal act.

Response Guidelines

Interact with other learners about the concept of burden of proof in criminal cases in the context of the requirement of concurrence. Share your perspectives about instances where the criminal mind is not accompanied by a criminal act, or when a harmful act is done without the requisite mental state. How does your perspective differ from that of other learners, and why?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

[Criminal Justice Undergraduate Research Guide](#)

G.R.E.A.T. Discussion Guidelines

[Community of Excellence](#)

Unit 3 >> Inchoate Offenses and Parties to Crime

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 4: Analyze the elements of a crime.

Introduction: Inchoate Offenses and Parties to Crime

Inchoate offenses mean incomplete crimes. They are also referred to as anticipatory offenses. Included in this category of offenses are attempts, conspiracy, and solicitation. A criminal act in these situations goes beyond the mere thought process. For example, steps beyond forming thoughts about the crime must be taken, but the crime is not fully completed.

In many jurisdictions, the level of culpability for an inchoate offense will be higher for the more extended degree of involvement toward completion of the criminal offense. The greater degree of potential harm often affects the degree of the offense charged.

For someone who is charged with an attempt to commit a criminal offense, there are two defenses—abandonment and factual impossibility. Abandonment is voluntary renunciation of the intention to commit the offense. Impossibility can be either factual or legal. Factual impossibility entails a claim by the accused that completion of the intended crime was factually impossible. Legal impossibility is based upon a claim that the attempted offense is really not an offense at all.

An attempt to commit an intended offense is usually a lesser-included offense, which means that the actor cannot commit the intended offense without also committing the attempt. In the criminal prosecution, the offenses merge into the completed offense and the accused is only sentenced on that charge.

A conspiracy is an agreement between two or more persons to commit a crime. A criminal conspiracy is an agreement between two or more persons, to carry out a crime, with the culpable intent on the part of the parties to that agreement. The essence of the conspiracy is the agreement. The parties do not need to know each other, know how many others are involved, or be even aware of the precise involvement of any others in the conspiracy, but they must have the intent to reach an agreement and carry out the criminal objective.

The crime of solicitation consists of asking, encouraging, or soliciting another person to commit a crime, with the intent that the substantive crime will be committed by the other person. The crime of solicitation has two elements:

- The intent that another party commits the crime.
- Asking, encouraging, or soliciting another party to commit a crime.

Generally, an accomplice is one who, with the purpose of promoting or assisting the commission of the offense, solicits another to commit the crime, aids, agrees to aid, or attempts to aid in planning or committing the offense, or having a duty to prevent the offense, fails to do so. An accessory is an individual who, after an offense has been committed, aids, conceals, or warns a principal with the intent that the principal avoid arrest, prosecution, conviction, or punishment for the crime.

The theory of vicarious liability is a theory of fault that imposes criminal liability upon a party for the criminal acts of another. Generally, this involves regulatory offenses and the most prevalent is the imposition of liability upon an employer for the criminal act of the employee. Persons who are vicariously liable may be punished in the same manner and to the same extent as the individual who committed the act leading to liability.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u03s1 - Studies

Readings

In your *Criminal Law Today* text, read the following:

- Chapter 4, "Extending Criminal Liability: Inchoate Offenses and Parties to Crime," pages 92–127.

Multimedia

- Complete the [Criminal Preparation, Criminal Intent, and Crime Commission](#) interactive media, which depicts the different steps of a crime, beginning with the criminal preparation through the actual commission of crime.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas in this unit, read the following recommended articles:

- Moore, M. S. (2007). Causing, aiding, and the superfluity of accomplice liability. *University of Pennsylvania Law Review*, 156(2), 395–452.

- Khanna, V. S. (1996). Corporate criminal liability: What purpose does it serve? *Harvard Law Review*, 109(7), 1477–1534.
- Sigler, H. J. (2009). Federal criminal conspiracy. *American Criminal Law Review*, 46(2), 589–620.

To get an overview of the functions of the court system and criminal law, take some time to glance through the following suggested websites:

- American Bar Association. (n.d.). [How Courts Work](#). This site focuses on jury instructions including inchoate offenses.
- The FBI: Federal Bureau of Investigation. (n.d.). [Federal Civil Rights Statutes](#). This site looks at the federal civil rights statutes, in particular section 241 on *Conspiracy Against Rights*.

u03d1 - Inchoate Offenses

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

Criminal laws reflect the values of society, and how they have evolved over time. (For example, in Florida as late as 1964, it was a first degree misdemeanor for persons of different races to marry or even occupy the same hotel room.) The degree of potential harm can affect the degree of the offense ultimately charged. As with any crime, the ultimate harm in criminal law is to society as the law exists to protect everyone. Laws, however, differ between federal and state, and from state to state jurisdictions. In this discussion you will explore the founding principles of criminal case law and precedent in terms of building an understanding of the difference between felonies and misdemeanors, and inchoate offenses. As you learned from your *Criminal Law Today* text, inchoate offenses are incomplete crimes as they are anticipatory in nature. Inchoate crimes include attempts, conspiracy, and solicitation.

For this discussion, begin by researching your state statute regarding the classification of crimes as misdemeanors or felonies. In your main post, include the following:

- Summarize the delineating factors that differentiate felonies from misdemeanors.
- Explore why it is important for law enforcement officers to understand these distinctions.
- Explain the elements of one inchoate offense from your state statute.
- Describe whether your chosen inchoate offense is a felony or misdemeanor.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Summarize the differentiating factors between felonies from misdemeanors.
 - Explore why law enforcement officers should understand the differentiating factors between felonies from misdemeanors.
 - Explain the elements of one inchoate offense from a state statute.
 - Describe whether an inchoate offense is a felony or misdemeanor.

Response Guidelines

Based on the research of your state statute regarding classification of crimes as misdemeanors or felonies, did you share similar perspectives with other learners regarding the delineating factors that differentiate felonies from misdemeanors? Why or why not? Did others' characterizations of inchoate offenses meet with your understanding? Why or why not?

Respond to the posts of at least two peers. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

Criminal Law Today

G.R.E.A.T. Discussion Guidelines

[Community of Excellence](#)

u03d2 - Crime of Attempt Versus Substantive Offense

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 4: Analyze the elements of a crime.

Introduction

The level of culpability for an inchoate offense will vary depending on the jurisdiction and may be higher for more extended degrees of involvement toward completion of a criminal offense. You will recall that an attempt to commit an intended offense is often what we refer to as a lesser included offense. In such instances the actor cannot help but commit the intended offense without also committing the lesser-included offense to attempt to commit the intended offense. When the offenses merge into a completed offense, an accused is only sentenced on one charge. Also, the degree of the offense charged can also be affected by the greater degree of potential harm that occurs often. For instance, the person who shoots and misses the intended victim will be treated more harshly than the person who sits in a tavern trying to hire a hit man to murder his wife.

In this discussion, consider the crime of attempt and accomplice liability when answering the following in your main post:

- Explain whether you believe the crime of attempt should carry the same punishment as the related substantive offense.
- Evaluate whether the same punishment as the substantive offense should be applied when it comes to an accomplice to a crime.
- Articulate whether the intent of an accomplice in assisting in the commission of a crime is a necessary element.
- Explore the criminal liability of an accomplice if the accomplice has a duty to prevent a crime, but fails to use reasonable efforts to do so.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Explain what punishment should be applied for a crime of attempt.
 - Evaluate whether the same punishment as the substantive offense should be applied when it comes to an accomplice to a crime.
- Competency 4: Analyze the elements of a crime.
 - Articulate whether the intent of an accomplice in assisting in the commission of a crime is a necessary element.
 - Explore the criminal liability of an accomplice if the accomplice has a duty to prevent a crime, but fails to use reasonable efforts to do so.

Response Guidelines

Interact with other learners regarding the penalties of criminal attempt and accomplice liability. In your response, address the following:

- Is it fair to assess the same degree of fault and impose the same punishment on an accomplice as on a perpetrator? What rationale supports your conclusions?
- How is your perspective similar or different from other learners' perspectives? Do you share the same ideas regarding the criminal liability of an accomplice? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

[CJ Discussion Scoring Guide](#)

[G.R.E.A.T. Discussion Guidelines](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 4 >> Personal Crimes

Introduction



Competency 1: Examine criminal law and procedure.

Competency 4: Analyze the elements of a crime.

Competency 5: Communicate effectively in writing.

Introduction: Criminal Acts and the Criminal Process

Simply stated, homicide is the killing of a human being by another human being. At common law, there were two types of criminal homicide: murder and manslaughter. Murder is the purposeful, knowing, or reckless unlawful killing of another human being. In a criminal homicide, the *corpus delicti* consists of the death of a human being caused by a criminal act. Although the discovery of a murder victim's body is not required for a successful prosecution, the *corpus delicti*, or proof beyond reasonable doubt that a murder occurred, is required.

Murder is the first of the three types of criminal homicide. The elements of the crime of murder are: (1) an unlawful killing, (2) of a human being, and (3) with malice aforethought. For such murders, the death penalty is permitted to be imposed under state law guidelines. This highest form of homicide is called aggravated murder and murder in the first degree in some jurisdictions.

Manslaughter is the unlawful killing of another without malice. The unlawful killing of another in response to provocation by the victim is referred to as voluntary manslaughter. Additionally, involuntary manslaughter is the unlawful killing caused by the commission of an unlawful act that is not a dangerous felony (which would make the killing felony murder), or which occurred as a result of culpable recklessness or negligence.

Some jurisdictions recognize negligent homicide, which is an unlawful killing that occurs when a death results from a negligent act, such as mishandling a firearm. Culpable negligence exists when the actor fails to exercise a reasonable standard of care. Statutes also define the crime of vehicular homicide as the killing of another that occurs as a result of reckless operation of a vehicle, such as drag racing or driving under the influence. Generally, the offender is suspected to have acted with heedless or reckless indifference to the consequences of his act, even if the exact result that occurred was not intended.

Under common law, anyone who assisted a suicide was a party to murder. Many modern statutes may define the elements of an assisted suicide, which do not rise to the level of a murder when the person takes a passive role.

Assault, battery, and mayhem are offenses that often overlap and are often referred to in the law as those that merge into the next level of seriousness. An assault in common law was one of two types. The first was the threat of committing a battery on the person, with the present ability to carry out that threat. The second was the attempted battery, when the offender attempted to cause an offensive touching of another that was neither consented to nor privileged. Battery is the intentional offensive touching or the causing of bodily injury to another.

The modern trend with sex offenses is to move away from the labeling that denotes a male offender against a female victim, such as the crime of rape. Today's statutes adopt a more gender-neutral term, such as sexual battery.

The crime of kidnapping entails the removal of a person from the place where he or she is found, against the will of that person, by force or threat of force. The laws of some jurisdictions provide for more than one type of kidnapping and often vary on how the confinement must be accomplished for the law to apply. False imprisonment is similar to kidnapping except that it does not require the carrying away of the victim. It is the unlawful restraint of the person's liberty, by force or threat of force.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today*. (6th ed.). Boston, MA: Pearson.

Learning Activities

u04s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 7, "Crimes Against Persons: Homicide," pages 212–243. This chapter looks at a homicide and focuses on its definition, dynamics, and laws.
- Chapter 8, "Crimes Against Persons: Assault, Sex Offenses, and Other Crimes," pages 244–273. This chapter focuses on other types of crimes besides homicide. You need to focus on the definitions, dynamics, and laws.

Use the Internet to watch the following:

- Wilson, L. [Barcoachguru]. (n.d.). [Types of Homicide Murder Manslaughter Part 1 of 2](#). | [Transcript](#).
 - Running time: 09:46.
- Wilson, L. [Barcoachguru]. (n.d.). [Crim Law #6: 2 Types of Homicide Part 2 of 2](#). | [Transcript](#).
 - Running time: 09:00.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas in this unit, read the following recommended articles:

- Cassity, S. A. (2009). To die or not to die: The history and future of assisted suicide laws in the U.S. *Journal of Law & Family Studies*, 11(2), 467–475.
- Toomin, M. P. (2008). Second degree murder and attempted murder: Clear's efforts to maneuver the slippery slope. *The John Marshall Law Review*, 41(3), 659–700.

Review the following suggested websites, which relate to the topics of this unit:

- Centers for Disease Control and Prevention. (2015). [Assault or Momicide](#). Review homicide statistics.
- Morton, R.J., & Hilts, Mark. A. (Eds.). (n.d.). [Serial Murder: Multi-Disciplinary Perspectives for Investigators](#). [Monograph]. *The FBI: Reports and Publications*. Pay attention to what serial murder is and the perspectives of it.
- [Bureau of Justice Statistics](#). (2016). Review homicide trends.
- The FBI: Federal Bureau of Investigation. (n.d.). [Kidnappings & Missing Persons](#). Review various kidnapping and missing persons investigations as well as other information.
- U.S. Department of Justice Office of Justice Programs. (2007). [A Family Resource Guide on International Parent Kidnapping](#). This guide will help you understand what parental kidnapping is as well as the laws behind it and the proactive systems in place to help prevent parental kidnapping.

u04a1 - Homicide and Law Enforcement

Competencies Addressed in This Assignment

- Competency 1: Examine criminal law and procedure.
- Competency 4: Analyze the elements of a crime.
- Competency 5: Communicate effectively in writing.

Overview

Many jurisdictions have adopted the Uniform Determination of Death Act, which provides that the individual has either 1) irreversible cessation of circulatory and respiratory functions, or 2) irreversible cessation of all function of the brain, including the brain stem. A criminal homicide must be the proximate result of the criminal act, and cannot be so remote that it is not the natural and probable consequence of the criminal act. Other time limits that may be established by statute, and how some states have abolished a time limit altogether as long as a causal connection can be established between the criminal act and resulting death. Along with the elements of the statute, the facts are critical to determining whether the elements can be met. For example, sometimes death occurs after the fatal injury, and in some cases, homicide prosecution under common law require that the death of the victim within a year and a day from the time that the ultimately fatal act took place.

Instructions

For this assignment, research your state's homicide laws using a statute list from your state's government website. Review the list of homicide statutes to guide you in locating a state homicide case on point with one of the homicide statutes and complete to the following:

- Describe one type of homicide from your state statute.

- Explain the elements required to prove a violation of the statute selected.
- Explore a case that is based on a charge associated with your selection, including the facts of the case and the ruling of the court.
- Articulate why it is important for a law enforcement officer to understand the elements of the statute and the court's interpretation of the statute when conducting an investigation of the crime.

Requirements

- **Written communication:** Must be free of errors that detract from the overall message.
- **Resources and citations:** Format according to APA guidelines.
- **Required page count:** 3–4, not including the cover page or the references page.
- **Font and font size:** Times New Roman, 12 point.

You are required to submit a draft of your paper to SafeAssign. Once you review your results and make any needed changes, submit your paper for grading.

Course Resources

[Legal Research Guide](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

[The Writing Center](#)

[Smarthinking](#)

[SafeAssign](#)

APA Paper Template [DOC]

u04d1 - Murder Versus Manslaughter

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 4: Analyze the elements of a crime.

Introduction

There are varying degrees of homicide and one single fact can result in a different charge under homicide laws. Life is defined in the law by statute as is the issue of viability, which can determine whether a statute applies in a given factual situation. For example, for a criminal homicide to occur at common law, the victim had to be born alive. Today, statutes may define life to include a fetus, and some classify illegal abortions as a criminal homicide. At common law, death occurred when the heartbeat and respirations ceased. Now, many courts use the brain death standard, which is said to occur when there is an absence of physiological or electrical brain activity that can be registered. Note that brain death may occur even though respirations and a pulse may continue.

For this discussion, varying charges will be explored. Imagine the following scenario:

During a domestic quarrel, a wife continually taunted her husband by degrading him and telling him he was a lousy lover and that she wanted to be rid of him. When the husband tried to persuade her to relent, she continued to taunt him in a louder voice. Finally, he grabbed a kitchen knife and stabbed her, and she died as a result. The husband was convicted of second-degree murder. On appeal, he argues his actions were taking place during a fit of passion and seeks to have his conviction reduced from second-degree murder to manslaughter.

For this discussion, based on the scenario provided, respond to the following in your main post:

- Differentiate the key distinctions between second-degree murder and manslaughter in your state.
- Explain how this case would play out if it were being heard in a court in your state.
- Determine whether the prosecutor charged the defendant with the incorrect crime.

- Articulate what would constitute enough evidence at trial to meet the criminal standard of proof to convict for the crime charged.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Explain how a given case would play out in state court.
 - Articulate what evidence is needed at trial to convict for the crime of murder.
- Competency 4: Analyze the elements of a crime.
 - Differentiate between second-degree murder and manslaughter state statutes.
 - Determine whether a prosecutor charged a defendant with the incorrect crime.

Response Guidelines

Interact with other learners about their findings, responding to at least two who reside in different states. Explain your findings and discuss the similarities and differences in the distinction between second-degree murder and manslaughter in your state and the states of your peers. Do you agree with the application of the statutes of other learners based on the scenario? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

[CJ Discussion Scoring Guide](#)

[G.R.E.A.T. Discussion Guidelines](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 5 >> Property and Computer Crimes, Terrorism, and Human Trafficking

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 3: Distinguish between legal and social parameters in criminal law.

Competency 4: Analyze the elements of a crime.

Introduction: Legal and Social Aspects of Crime

As society advances in technology and the use of computers and the Internet increases, so do computer crimes. This unit focuses on the different types of computer crimes, as well as crimes of theft, arson, and burglary.

Theft is depriving another of property. It is a specific-intent crime, which means the intent is to specifically deprive the owner of property permanently or for an unreasonable period of time. Robbery is a theft offense that is perpetrated by force or the threat of force. The property must be in possession or within the victim's ability to touch, observe, or control. The force necessary to commit the crime is the force necessary to overcome the will of the victim, including intimidation (Schmallegger & Hall, 2017).

Identity theft is quickly becoming a widespread issue in today's society, which is difficult for law enforcement agencies to prevent, detect, and prosecute. It entails the unauthorized use of another person's personal information to obtain property, money, or services with that person's identity with the intent of avoiding payment. Those offenses that cannot be committed without a computer are considered computer crimes. Since computer-related crimes are generally directed at violating traditional laws, early prosecutions consisted of crimes of theft, embezzlement, and fraud perpetrated with the use of a computer.

In addition to identity theft, there are many traditional theft crimes against persons, which include larceny, embezzlement, false pretenses, forgery, receiving stolen property, robbery, and extortion. Modern state statutes often merge most crimes involving the wrongful acquisition of another's property into one theft crime of different degrees. The degree of a crime generally depends on the value, amount, type, and characteristics of the property, whether the offender has previously been convicted of a theft offense; Some jurisdictions even enhance the degree of the offense if it involves a particular class of persons (for example, a victim over 65 years of age). The Internet has provided the opportunity to commit traditionally based offenses, such as theft and fraud, but it has also served as the vehicle through which child solicitation and enticement offenses may occur, as well as providing the possibility of procuring and disseminating child pornography (Schmallegger & Hall, 2017).

Human trafficking can be defined as the kidnapping and selling of people. Terrorism is the use of violence to coerce a community or government. This unit focuses on the dynamics of terrorism and human trafficking.

Terrorism is a crime against the public and is now worthy of separate attention in the study of criminal law. The crime is defined by its public nature, intended to harm or disrupt the government. Treason is the only crime mentioned in the Constitution and provides that levying war upon the United States, or adhering to its enemies, or giving them aid and comfort, are acts of treason. The Constitution requires two witnesses or a confession to prove the offense.

Human smuggling is the facilitation, transportation, attempted transportation, or illegal entry of a person across an international border, in violation of one or more laws of that country, either through clandestine measures or by deception, such as fraudulent documents. It refers to illegal immigration where the accused is paid to aid or assist in the border crossing. It generally occurs with the consent of the person being smuggled (Schmallegger & Hall, 2017).

Trafficking in persons can be compared to modern day slavery. It involves the exploitation of an unwilling or unwitting person, through force, coercion, threat or deception, for the purpose of sexual exploitation, labor exploitation, and other human rights abuses.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u05s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 9, "Property and Computer Crimes," pages 274–321.
 - As society advances in technology and as the use of computers and the Internet increases, so do computer crimes. This chapter focuses on the different types of computer crimes, as well as crimes of theft, arson, and burglary.
- Chapter 12, "Terrorism and Human Trafficking," pages 404–428.
 - Human trafficking can be defined as the kidnapping and selling of people. Terrorism is the use of violence to coerce a community or government. This chapter focuses on the dynamics of terrorism and human trafficking.

In the Capella library, read the following:

- Lizza, R. (2013, December 16). [State of deception](#). *The New Yorker*, 89(41).
- Alvarez, L. (2012, May 27). [Identity thieves looting tax returns: Criminals outwit IRS by filing return before real taxpayer does](#). *Dayton Daily News*, A17.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas of this unit, read the following recommended articles:

- Pastrikos, C. (2004). Identity theft statutes: Which will protect Americans the most? *Albany Law Review*, 67(4), 1137–1157.

- Soma, J. T., Nichols, M. M., Rynerson, S. D., Maish, L. A., & Rogers, J. D. (2005). Balance of privacy vs. security: A historical perspective of the USA Patriot Act. *Rutgers Computer and Technology Law Journal*, 31(2), 285.

Review the following suggested websites, which relate to the topics of this unit:

- The United States Department of Justice. (n.d.). [Computer Crime and Intellectual Property Section \(CCIPS\)](#).
 - CCIPS is a central resource in the federal government's fight against cybercrime.
- U.S. Department of Energy. (n.d.). [National Security and Safety](#).
 - The center provides solutions for U.S. government agencies that are facing security challenges. This includes challenges in information technology.
- [Central Intelligence Agency](#). (n.d.).
 - This site offers historical reports and analysis of the fight against terrorism and the CIA's role in that effort.
- Department of Homeland Security. (n.d.). [FEMA – Ready: Prepare. Plan. Stay Informed](#).
 - U.S. Department of Homeland Security offers this site to educate the public about how to be prepared in case of a national emergency, including a possible terrorist attack.

u05d1 - Crime of Attempt Versus Substantive Offense

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 3: Distinguish between legal and social parameters in criminal law.
- Competency 4: Analyze the elements of a crime.

Introduction

Theft is a specific intent crime. Therefore, the requisite intent is to specifically deprive the owner of property permanently or for an unreasonable period of time. With regard to state offenses of theft, elements will differ, especially the *mens rea*, which may be different than intent or purpose. Some jurisdictions only require the requisite mental state as when a person knowingly acquires property with the intent of depriving another. Theft offenses usually have the same criminal mental state defined in most state statutes, which is the purpose and intent to deprive another of property. From there, the elemental distinctions become apparent.

For this discussion, research your state code for the crime of theft and include the following in your main post:

- Determine how many different degrees of theft exist in your state.
- Analyze the different theft offenses based on your research (for example: amount, value, prior theft offenses, special property, and other enhancements).
- Explain proof standards to meet the specific intent mindset requirement for certain theft offenses.
- Distinguish between legal and social parameters that have played a part in the evolution of theft crimes and their codification.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Determine the different degrees of theft.
 - Analyze theft offenses based on state law research.
 - Explain proof standards for certain theft offenses.
- Competency 3: Distinguish between legal and social parameters in criminal law.
 - Distinguish between legal and social parameters in the legal evolution of theft crimes.

Response Guidelines

Based on the research of your state statute regarding theft crimes, interact with other learners about the legal and societal advantages and disadvantages of having different degrees of theft. In your response, answer the following:

- Did you share similar findings regarding the degrees of theft and the proof standards for theft offenses? Why or why not?
- Did others' distinctions of the legal and social parameters in the legal evolution of theft crimes align with yours? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

u05d2 - Terrorism

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 4: Analyze the elements of a crime.

Introduction

Terrorism is a crime against the public. The crime of terrorism is defined by its public nature in that it is intended to harm or disrupt the government. Terrorism is not a new or novel crime, and has been used by those with political, ideological, or religious intentions through history. However, recent events and novel technological approaches have increased its threat to domestic security and led to increased awareness and attention by lawmakers. The common elements of terrorism are as follows: 1) the commission of an already established crime, 2) the intention to coerce a population or influence a government, and 3) through the use of intimidation or fear. The crime of terrorism may transcend the boundaries of the United States, which is considered international terrorism, or it may be primarily within the boundaries of the U.S., which constitutes domestic terrorism. This crime may take the form of bioterrorism, aiding terrorists, financing terrorists, and the use of weapons of mass destruction, which are all separate federal crimes. Various federal laws have been enacted in response to terrorist acts (for example FISA, AEDPA, and the USA Patriot Act).

Using the events of September 11, 2001 as a starting point for your main post, address the following:

- Describe how the events of September 11, 2001 have impacted law interpretation in a post-9/11 world to tip the scales in favor of or against individual rights.
- Explain whether the government should confront this threat from a criminal justice standpoint, a military issue, or a combination of the two.
- Analyze what safeguards should exist, if any, to ensure legal requirements are being adhered to from a criminal justice professional's perspective.
- Explore the impacts of the post-9/11 law and court interpretations of law on a criminal justice practitioner based on your current or future career.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Explain how the government should confront terrorism.
 - Analyze what safeguards should exist, if any, to ensure adherence to legal requirements.
 - Describe legal interpretation in a post-9/11 world as it relates to individual rights.
- Competency 4: Analyze the elements of a crime.
 - Explore career impacts of the post-9/11 law and court interpretations of law on a criminal justice practitioner.

Response Guidelines

Interact with other classmates regarding how the events of September 11, 2001 have caused you and other learners to view post-9/11 law interpretation to tip the scales in favor of or against individual rights. In your response, address the following:

- How are your perspectives on whether the government should confront this threat from a criminal justice standpoint or as a purely military issue similar or different, or a combination of both?
- Discuss the dangers that exist if safeguards to ensure basic human and civil rights do not exist. How is your perspective similar or different from other learners' perspectives?
- Do you share the same ideas regarding career impacts of the post-9/11 law and court interpretations of law as a criminal justice practitioner? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Unit 6 >> Offenses Against Public Order and the Administration of Justice and Public Morality

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 3: Distinguish between legal and social parameters in criminal law.

Competency 4: Analyze the elements of a crime.

Competency 5: Communicate effectively in writing.

Introduction: Crimes Against Public Order

Crimes against public order are offenses that disturb the peace and tranquility of society, and include breach of the peace, disturbing the peace, disorderly conduct, fighting, affray, vagrancy and loitering offenses, and offenses involving public intoxication. These offenses are premised on the assumptions that a safe and orderly society must be maintained for the good of the public in general. At common law, breach of the peace was used to include any unlawful activity that disturbed the peace and tranquility of the community. In today's statutes, it is used to define a great variety of conduct that infringes upon that peace and tranquility; in some jurisdictions, it is referred to as disorderly conduct.

The presence of a person in a public place who is under the influence of alcohol (and/or drugs, in some statutes) constitutes the crime of public intoxication. The two most common offenses involving the use of alcohol are public intoxication and driving under the influence of alcohol. Public intoxication consists of being in a public place and being intoxicated to such a degree that the person poses a danger to himself or others. In most modern statutes, driving under the influence includes being under the influence of drugs. Even if a chemical test is refused, a person may be charged under a general provision of being under the influence or may be subject to additional penalties, such as the immediate suspension of a driver's license for the refusal alone. In these cases, the arresting officer's observations of impairment would be the basis of charging a suspect, even in the absence of a chemical test.

Today's interest in national security has resulted in numerous and complex laws dealing with the status of aliens in the country and the controls that have been implemented to prevent illegal entry. Crimes against the administration of government are offenses that violate the social order. Many prosecutors see these offenses, which attack the very foundation of the legal system, as some of the most serious crimes worthy of diligent enforcement and prosecution efforts. These offenses include treason, perjury and contempt, obstruction of justice, escape, and misconduct in office and bribery. Environmental crimes are crimes where criminal penalties are imposed, generally upon a business or corporation, for violating standards established to regulate any business, industry, manufacturer, et cetera, for the public good (for example, pollution control and biohazard disposal).

Most crimes have specific and identifiable victims. However, crimes against public decency and morality are a category of social order offenses that have been termed "victimless" crimes. That is, the participants willingly engage in the criminal behavior, including prostitution, drug use, gambling, and crimes involving pornography and obscenity. Prostitution is a crime in all states except Nevada, where counties with a population of less than 400,000 are empowered to license houses of prostitution. Nevada has a comprehensive regulatory system and unlicensed prostitution is a misdemeanor in Nevada. The elements of the offense are defined by the individual states, but generally entail the offering or receiving of sexual conduct (or sexual activity, sexual intercourse) for hire. Soliciting prostitution is the act of asking, enticing, or requesting another to commit the crime of prostitution. Promoting prostitution is a crime that intends to punish those who profit or attempt to profit by using others to engage in acts of prostitution. Keeping a place of prostitution occurs when the offender grants or permits the use of any place or conveyance for the purpose of prostitution.

States may also have laws such as the offense of pimping or pandering. Again, these involve the procurement, arranging, directing, receiving money, aiding or soliciting the act of prostitution.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u06s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 10, "Offenses Against Public Order and the Administration of Justice," pages 323–365. This chapter investigates public order offenses in relation to breach of peace, disorderly conduct, alcohol and drug crimes, and loitering.
- Chapter 11, "Offenses Against Public Morality," pages 366–403. This chapter investigates offenses that pertain to gambling, gaming, prostitution, pornography, controlled substances, and so on.

Use the Capella library to read the following:

- Tsesis, A. (2016). [Balancing free speech](#). *Boston University Law Review*, 96(1), 1–54.

Suggested Readings and Websites

To help you gain an understanding of some of the focus areas of the unit, read the following recommended articles:

- Allenbaugh, M. H. (1999). What's your water worth?: Why we need federal fine guidelines for corporate environmental crime. *American University Law Review*, 48(4), 925–966.
- Wolfe, C. (2000). Forum on public morality: Public morality and the modern Supreme Court. *The American Journal of Jurisprudence*, 45, 65–92.

Review the following suggested websites, which relate to the topics of this unit:

- Lourdeau, K. (2004). [Testimony: Innocent Images National Initiative](#).
 - This site from the FBI provides a testimony on combating child exploitation and child pornography.
- U.S. Department of Justice Offices of the United States Attorneys. (n.d.). [754. Criminal Versus Civil Contempt](#). *Criminal Resource Manual*.
 - This site focuses on federal criminal contempt.
- The FBI: Federal Bureau of Investigation. (n.d.). [Economic Espionage: Protecting America's Trade Secrets](#).
 - This site focuses on economic espionage.
- Doyle, C. (2014). [Perjury Under Federal Law: A Brief Overview](#). *Congressional Research Service*.
 - This site provides a brief overview on perjury under federal law.
- U.S. Supreme Court. (2007). [District of Columbia et al. v. Heller](#).
 - This includes a consideration by the Supreme Court on whether a District of Columbia prohibition on the possession of usable handguns in the home violates the Second Amendment to the Constitution.
- [National Rifle Association - Institute for Legislative Action](#) (n.d.).
 - This is the site for the National Rifle Association's powerful lobbying arm called the Institute for Legislative Action, aimed at the continued advocacy of Second Amendment rights.
- U.S. Department of Justice. (n.d.). [Drug Enforcement Administration \(DEA\)](#).
 - The foremost site for comprehensive information about drug-related crime in the United States is the Drug Enforcement Administration (DEA) website. The DEA publications page, which is the access point for information related to the "war on drugs."

Competencies Addressed in This Assignment

- Competency 1: Examine criminal law and procedure.
- Competency 3: Distinguish between legal and social parameters in criminal law.
- Competency 4: Analyze the elements of a crime.
- Competency 5: Communicate effectively in writing.

Overview

There are three categories of social-order crimes (the fourth will be covered later in the course). The three categories that fall under the heading of offenses against public order and the administration of justice are 1) crimes against public order and safety, such as disorderly conduct and reach of peace; 2) crimes against justice and the administration of justice, such as treason and perjury; and 3) crimes against the environment, such as crimes that violate environmental laws. These social-order or public-order crimes are offenses that disturb society in such a way that the action taken is seen as invading the peace and tranquility of society.

Instructions

For this assignment, assume you have been asked by your supervisor to select a public-order crime from one of the three categories that relates to your current or future position as a criminal justice professional to be distributed to your department for training purposes. Based on your selected crime, prepare a memorandum to your supervisor, responding to the following:

- Summarize a statute (federal or state, depending on the crime chosen) governing your selected crime using your state's government website.
- Analyze the elements required to prove a violation of the statute for your selected crime.
- Explain one case opinion that is on point for the charge associated with your selection, including the facts of the case, the ruling of the court and the basis for the ruling.
- Articulate why it is important for a criminal justice professional to understand the legal and social parameters of the statutory and case law for your selected crime when conducting an investigation.

Requirements

- **Written communication:** Must be free of errors that detract from the overall message.
- **Resources and citations:** Format according to APA guidelines.
- **Required page count:** 3–5, not including the cover page or the references page.
- **Font and font size:** Times New Roman, 12 point.

You are required to submit a draft of your paper to SafeAssign. Once you review your results and make any needed changes, submit your paper for grading.

Course Resources

[Legal Research Guide](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

[The Writing Center](#)

[Smarthinking](#)

[SafeAssign](#)

APA Paper Template [DOC]

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 3: Distinguish between legal and social parameters in criminal law.

Introduction

Most crimes have specific and identifiable victims but that some, such as the crimes against public decency and morality are considered victimless crimes. Some of these crimes include prostitution, drug use, gambling, and crimes involving pornography and obscenity fall into this category. Whether these are truly "victimless" crimes is open to debate and some claim that such offenses are an attempt to legislate morality.

In your main post, discuss the following:

- Analyze whether you believe any crimes are truly victimless, supporting your position with at least one example.
- Evaluate how many of these offenses against morality are likely to change in the foreseeable future due to a shift toward a more liberal or conservative approach to crime.
- Explain whether, if a crime is considered to be victimless, that would impact how you would carry out your duties as a law enforcement officer witnessing the commission of such a crime.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Analyze whether there are truly victimless crimes.
 - Explain whether a victimless crime would impact how a law enforcement officer would carry out their duties.
- Competency 3: Distinguish between legal and social parameters in criminal law.
 - Evaluate which offenses against morality are likely to change due to a shift toward a more liberal or conservative approach to crime.

Response Guidelines

Interact with other learners about whether any crimes are truly victimless. What are the similarities and differences in your perspectives, and why? Did you reach similar conclusions as to how many of these offenses against morality are likely to change in the foreseeable future in light of society's changing standards of morality? Why or why not? Was there a meeting of the minds as to whether a crime that is considered to be victimless would impact other learners' ability to carry out their duties as a law enforcement officer witnessing the commission of such a crime in progress?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

[CJ Discussion Scoring Guide](#)

[G.R.E.A.T. Discussion Guidelines](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 7 >> Justifications as Defenses

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Introduction: Justifications as Defenses

Based on our legal system, an accused may, but is not required, to put forth a defense to the crime charged. Defenses consist of failure of proof, alibi, justifications, and excuses. Justification-based and excuse-based defenses are known as affirmative defenses. In most states, an affirmative defense must be raised by an accused and proven by a preponderance of the evidence to warrant a jury instruction on that issue. It does not negate an element of the crime charged, but raises a legal question that may excuse or justify the defendant's act. This does not eliminate the prosecution's obligation to prove the charge beyond a reasonable doubt. Nor does it infringe upon the right of the accused requiring the state to prove each element of the charged offense or offenses.

A person is entitled to defend his home, family, and property. Generally, defense of the home and family entitles a person to assert the defense of the same as if the attack were made personally against the defender. Deadly force is not permitted to defend property. However, some states have statutes where a presumption arises that an attack upon the home is for the purpose of infliction of great bodily harm or death upon the occupants. A person has no duty to retreat from the home under what has been called the castle rule. Every person's home, no matter how humble or how grand, is his or her castle to which he or she is afforded and entitled peace and solitude.

Most modern day statutes provide that an arrest must be lawful in order for a person to be charged with resisting arrest. Resistance may be considered justified in common law. Some jurisdictions however find that it is no defense to the arrestee if it is later shown that the arrest was unlawful. This places the citizen in the position of compliance for the safety of the officer, and the determination as to the merits of that arrest left to the court. A citizen could still file a civil lawsuit if the arrest was held unlawful.

Deadly force by a law enforcement officer may only be used to prevent death or serious injury to the public, the officer, or to apprehend a suspect who poses a serious risk of future harm if not taken into custody. However, it is unconstitutional to automatically resort to deadly force to apprehend a fleeing felon.

The defense of consent means that the criminal conduct for which the accused is charged was consented to by the alleged victim. This may be in the nature of an assault, battery, or sexual activity. In order to be valid, however, consent must be freely and voluntarily given by a person who is legally competent and is not a minor. Discuss statutory offenses and how consent of the victim is irrelevant. Many offenses cannot be consented to, such as homicide and those involving serious harm.

References

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Course Resources

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson. ISBN:9780134437392.

Learning Activities

u07s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 5, "Justifications as Defenses," pages 128–152. This chapter investigates various dynamics of a defense in crimes.

Use the Internet to read the following:

- Francescani, C. (2012) [George Zimmerman: Prelude to a shooting](#). *Reuters*.

Use the Capella library to read the following:

- Zadrozny, B. (2013, December 12). [Beyond "affluenza": Four more unusual defense strategies](#). *The Daily Beast*.

Suggested Readings

To help you gain an understanding of some of the focus areas of this unit, read the following recommended articles:

- Carpenter, C. L. (2003). Of the enemy within, the Castle Doctrine, and self-defense. *Marquette Law Review*, 86(4), 653–700.
- Cohan, J. A. (2006). Homicide by necessity. *Chapman Law Review*, 10(1), 119–185.

Suggested Websites

Review the following websites, which relate to the topics of this unit:

- Violence Policy Center. (2001). [A Deadly Myth](#).
 - An assessment of women, handguns, and self-defense.
- CNN. (2009). [Anti-Abortion Activist Can't Use "Necessity Defense" in Slaying](#).
 - Looks at a case where the attempt to assert necessity defense was unsuccessful.
- ABC News. (n.d.). [Stand Your Ground Law News](#).
 - Looks at latest news feeds about the law.

u07d1 - Self-Defense

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

Many of you will recall the recent case involving George Zimmerman and Trayvon Martin. The Francescani article provides more background on the facts leading up to that case. While Florida has a "stand your ground" law in effect, it was not the deciding factor in the Zimmerman case. Fla. Stat. § 776.01 states:

A person is justified in using force, except deadly force, against another when and to the extent that the person reasonably believes that such conduct is necessary to defend himself or herself or another against the other's imminent use of unlawful force. However, a person is justified in the use of deadly force and does not have a duty to retreat if: (1) He or she reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony; or (2) Under those circumstances permitted pursuant to s. 776.013.

In Florida, there is no requirement or "duty to retreat" and a shooter may "stand their ground" when firing in self defense. But the duty to retreat was not an issue in the Zimmerman case because, as the defense argued, deadly force was used because Zimmerman "reasonably" believed it was necessary to prevent imminent death or great bodily injury. This rule is on par with almost every other state.

Based upon the recognition that a person has the right to repel an unlawful attack, self-defense generally requires that an accused establish that there was a good faith belief there was an imminent threat of harm, that force was necessary to repel the attack, and the force was reasonable under the circumstances. Deadly force can only be used to repel an attack that threatens great bodily harm or death.

In your main post, discuss the following:

- Analyze the difference between the objective, reasonable person standard and the subjective evaluation of a person who invokes a claim of self-defense, providing examples to support your findings.
- Describe how those differences may become obscured depending upon the facts and circumstances of a particular case.
- Explain potential challenges that could be faced by law enforcement when investigating crime where there is a claim of self-defense.

- Standing in the shoes of a police officer, examine whether the validity of a self-defense assertion is something that you believe is appropriately determined at the law enforcement level.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Analyze the difference between the reasonable person standard and subjective evaluation of a person invoking a claim of self-defense.
 - Describe how differences between the reasonable person standard and subjective evaluation may be obscured.
 - Explain potential challenges faced by law enforcement when there is a claim of self-defense.
 - Examine whether the validity of a self-defense assertion is something that should be determined at the law enforcement level.

Response Guidelines

Interact with other learners about the examples you provided to highlight the difference between the reasonable person standard and the subjective evaluation of a person who invokes a claim of self-defense. In your response, address the following:

- What are the similarities and differences in your perspectives, and why?
- Did you reach similar conclusions as to how those differences may become obscure depending upon the facts and circumstances of a particular case? Why or why not?
- What differences did you discover about the applicable laws pertaining to self-defense and identify potential challenges that could be faced by law enforcement when investigating crime where there is a claim of self-defense?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

[Community of Excellence](#)

G.R.E.A.T. Discussion Guidelines

[Criminal Justice Undergraduate Research Guide](#)

u07d2 - Use of Deadly Force

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

Most modern day statutes provide that an arrest must be lawful in order for a person to be charged with resisting arrest. While resistance may be considered justified at common law, some jurisdictions find that it is no defense to the arrestee if it is later shown that the arrest was unlawful. This places the citizen in the position of compliance for the safety of the officer, with the determination as to the merits of that arrest left to the court. A citizen could still file a civil lawsuit if the arrest was alleged to have been unlawful.

Deadly force by a law enforcement officer may only be used to prevent death or serious injury to the public, the officer, or to apprehend a suspect who poses a serious risk of future harm if not taken into custody. However, it is unconstitutional to automatically resort to deadly force to apprehend a fleeing felon.

In your main post, research a recent case on the use of deadly force and include the following:

- Summarize the facts of your selected case and the court's ruling.
- As a criminal justice professional, explain your agreement or disagreement with the court's ruling in terms of how it would affect your performance on the job.
- Evaluate the constitutional aspects of the law regarding deadly force in the case of a fleeing felon.
- Analyze whether you believe the law in the area of deadly force is aligned or misaligned, given the rules and limited exceptions, using examples to support your position.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Summarize the facts of a case and the court's ruling regarding the use of deadly force.
 - Explain your position on a use of deadly force court ruling.
 - Evaluate the constitutional aspects of deadly force law in the case of a fleeing felon.
 - Analyze whether the rules and limited exceptions of the use of deadly force law is aligned or misaligned.

Response Guidelines

Interact with other learners about the facts of your selected case and the court's ruling. In your response, address the following:

- What are the similarities and differences in your perspectives regarding your position on the courts' rulings, and why?
- Did you reach similar conclusions as to constitutional aspects of the law regarding deadly force in the case of a fleeing felon? Why or why not?
- Did you share similar perspectives about the alignment of the rules and exceptions in this area of law? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

G.R.E.A.T. Discussion Guidelines

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 8 >> Defenses: Excuses and Insanity

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 3: Distinguish between legal and social parameters in criminal law.

Competency 5: Communicate effectively in writing.

Introduction: Defenses—Excuses and Insanity

Excuse-based defenses are just what the name implies: They are defenses that provide an excuse to criminal behavior, as opposed to a justification of the criminal behavior that was explored in the last unit. They are generally affirmative defenses, which mean that the accused must establish the facts and circumstances of his or her situation that would warrant a jury being instructed to consider that situation as a defense.

Duress is based upon the theory that if a person is compelled or coerced to commit a criminal act, such as by fear for his or her own life or the lives of others, such conduct was not the product of a free will and criminal liability would be excused. Voluntary intoxication is generally regarded as holding the person accountable for placing himself in that position. Involuntary intoxication may serve as a defense to render one incapable of forming the requisite mental state, usually one of purpose or intent, to commit the crime in question. A good faith mistake of fact may be an excuse to criminal liability. A mistake of law, however, is not defense to criminal liability.

The defense of age is that the person committing the offense should not be held criminally liable by virtue of age. Today, in most jurisdictions, age is a factor of being charged with an offense—as a juvenile (under 18 years) or as an adult (over 18 years). The defense of age is based on chronological age, not on level of maturity.

Voluntary intoxication is generally regarded as holding the actor accountable for placing himself in that position. Even though it may be considered in mitigation of specific attempt crimes, it is not effective as a defense based upon the sentiments of most any jury. Involuntary intoxication may serve as a defense to render one incapable of forming the requisite mental state, usually one of purpose or intent, to commit the crime in question.

A good faith mistake of fact may be an excuse to criminal liability. One example that would rise to the level of a mistake of fact would be taking home a briefcase you thought was yours, but turns out to be a co-worker's.

A mistake of law, however, is not defense to criminal liability. For example, if you drive in an area where you thought the posted speed was 55, but it is 35, that is a mistake of law. Another example of a mistake of law would be if you did not know that the possession of a shotgun with a barrel less than 18 inches is a felony. Ignorance of the law is generally no excuse.

A syndrome entails signs and symptoms that manifest in a person and rises to the level of a recognized clinical condition. These are used in mitigation of, and not as an excuse to, criminal behavior. For instance, it may lower the degree of an offense by negating the required criminal mental state, such as purpose or intent, but it does not negate *mens rea* altogether. Like other defenses that refer to clinical conditions, proof is in the form of expert opinions based upon a reasonable degree of professional, psychological, or medical certainty. Most popular syndromes include battered women, attention deficit disorder, and others.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u08s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 6, "Defenses: Excuses and Insanity," pages 153–211. This chapter goes into more detail about defenses in crimes. It digs into the history of the insanity defense, diminished capacity, mental incompetency, and the consequences of an insanity plea.

Use the Internet to view the following:

- Wilson, L. [Barcoachguru]. (n.d.). [Types of Homicide Murder Manslaughter Part 1 of 2 | Transcript](#).
 - Running time: 09:46.
- Wilson, L. [Barcoachguru]. (n.d.). [Crim Law #6: 2 Types of Homicide Part 2 of 2 | Transcript](#).
 - Running time: 09:00.

Use the Capella library to read the following:

- Samuels, A., O'Driscoll, C., & Allnutt, S. (2007). [When killing isn't murder: Psychiatric and psychological defences to murder](#). *Australasian Psychiatry*, 15(6), 474–479.

Suggested Readings

To help you gain an understanding of some of the focus areas of this unit, read the following recommended articles:

- Hall, T. S. (2002). Legal functions and moral reasoning: Capital punishment and the mentally retarded defendant after Penry v. Johnson. *Akron Law Review*, 35(3/4), 327–370.
- Mangiafico, J., & Westen, P. (2003). The criminal defense of duress: A justification, not an excuse — and why it matters. *Buffalo Criminal Law Review*, 6(2), 833–950.
- Walker, L. E. (2009). [Battered woman syndrome](#). *Psychiatric Times*.

Suggested Websites

Review the following websites, which relate to the topics of this unit:

- Martin, J. (1998). [The Insanity Defense: A Closer Look](#). *The Washington Post*.
 - Provides a look at the insanity defenses.
- U.S. Department of Justice, Offices of the United States Attorneys. (n.d.). [645. Entrapment - Elements](#).

- Looks at entrapment as a complete defense.

u08a1 - Entrapment

Competencies Addressed in This Assignment

- Competency 1: Examine criminal law and procedure.
- Competency 3: Distinguish between legal and social parameters in criminal law.
- Competency 5: Communicate effectively in writing.

Overview

The entrapment defense is another defense, like intoxication, that is often misunderstood and rarely successful in court. The defense must establish that the government, usually through the conduct of law enforcement, planted in the mind of an otherwise innocent person the inducement to commit a criminal offense. It has been called an admission-avoidance defense. In this defense the accused essentially admits that he committed the elements of an offense and argues that, if not for the action of the government, the offense would not have been committed and criminal liability should be avoided.

Instructions

To successfully complete this assignment, include the following:

- Explain what evidence the defense must present at trial to successfully assert the entrapment defense, using a recent case in your jurisdiction.
- Explore how the prosecution may rebut the "innocent person" claim with evidence of prior bad acts relevant to crime charged.
- Differentiate between the subjective test, which examines characteristics of the accused to determine if that person was predisposed to commit the offense, and the objective test, which is usually premised on extreme and outrageous government conduct.
- Articulate why it is important for law enforcement officers to understand the legal and social parameters in entrapment cases.

Requirements

- **Written communication:** Must be free of errors that detract from the overall message.
- **Resources and citations:** Format according to APA guidelines.
- **Required page count:** 3–4, not including the cover page or the references page.
- **Font and font size:** Times New Roman, 12 point.

You are required to submit a draft of your paper to SafeAssign. Once you review your results and make any needed changes, submit your paper for grading.

Course Resources

[Legal Research Guide](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

[The Writing Center](#)

[Smarthinking](#)

[SafeAssign](#)

[APA Paper Template \[DOC\]](#)

u08d1 - Mental Competence and Crime

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

The lack of mental competence can be broken down into two categories that have relevance to criminal culpability. The categories are competency and sanity. Competency is a legal question that entails the ability to understand the nature of the charges and the ability to assist in a defense. The issue of sanity focuses on the state of mind the accused possessed at the time the act was committed. It is in the nature of an affirmative defense to raise the issue of whether or not the accused possessed the required criminal mental state at the time the act was committed. Unlike competence, insanity is a question of fact for a jury to determine. The consequence of an insanity finding is generally a civil commitment to the least restrictive alternative (for example, mental hospital and treatment facility) until the court finds the person is no longer a danger to himself or others.

In your main post, complete the following:

- Describe the test for insanity in your state, citing statutory or case law.
- Explain which party bears the burden of proof in your state once the defendant introduces some evidence of insanity.
- Analyze whether you think the test in your state adequately protects the public and the defendant's rights.
- Evaluate the importance of understanding the procedural and substantive facets of the defense.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Describe a state test for the insanity defense.
 - Explain who bears the burden of proof in a case where there is evidence of insanity.
 - Evaluate whether the requirements for an insanity defense adequately protect the public and the defendant's rights.
 - Evaluate the importance of understanding procedural and substantive facets of a defense.

Response Guidelines

Interact with other learners about the test for the insanity defense in your state. Is it similar to tests in other states? Why or why not? Did you agree with others about which party bears the burden of proof in an insanity case, and why? Were perspectives similar or different on the issue of whether the requirements for an insanity defense adequately protect the public and the defendant's rights?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

[CJ Discussion Scoring Guide](#)

[G.R.E.A.T. Discussion Guidelines](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 9 >> Victims and the Law

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Introduction: Victims

Who is a victim? The concept is foreign to civil law, which speaks of one who is wronged or injured. The word victim in criminal law denotes someone against whom a criminal offense has been committed. There are seven different schools of thought to support the need for victim compensation programs:

- Strict liability.
- Government negligence theory.
- Equal protection theory.
- Humanitarian theory.
- Social welfare theory.
- Crime prevention theory.
- Political motives theory.

Victims' assistance programs today provide a wide array of services, including support, explaining the court process, escorts, assistance in completing victim compensation forms, educating the public, and providing transportation.

Two major surveys provide for the annual reporting of crime in the U.S. These are the Uniform Crime Reports (UCR), which also incorporates the National Incident-Based Reporting System (NIBRS). The other is the National Crime Victimization Survey (NCVS). Data is obtained twice each year from a nationally representative sample. This provides the largest national forum for victims to describe the impact of crime on their lives. The survey is administered by the Bureau of Justice Statistics. There is potentially a question of whether the accuracy of these statistics can be supported or refuted with empirical data or theory.

Some states have built the philosophy of victims' rights into statutes that call for specific rights of protection, notice, and reparation to victims. Some states have even ratified constitutional amendments to protect the rights of victims. Review California Constitution and statutes.

"Son of Sam" laws were designed to prevent a convicted offender from capitalizing on his or her crime through various media deals. The first state legislation, from which the "Son of Sam" laws were first enacted, came from New York. Today, they exist in numerous states as well as in federal statutes. In most states, the victim must obtain a civil judgment for eligibility to file a claim. In other states, claim applications are made through the state's victim compensation program.

The concept of restitution recognizes that the crime victim often suffers financial consequences as a result of being victimized. It differs from those victim assistance programs backed by the government that were previously discussed. In this instance, restitution requires the offender to bear the financial obligation for compensating the victim for his or her loss. Such loss may be in the form of medical bills, lost wages, property damage, et cetera.

Restorative justice builds upon the concept of restitution and other sentencing strategies to include community service, mediation, victim-related programs, and the like, with the philosophy that all parties affected by the crime—the victim, the offender, and society—will benefit.

References

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u09s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 13, "Victims and the Law," pages 429–464. This chapter looks at the history of victims, their rights, victim statistics and restitution.

Films on Demand Video

- Carlton International Media (Producer). (2006). *Post-traumatic stress disorder [Video]*. Films on Demand.
 - Running time: 04:09.

Suggested Readings

To help you gain an understanding of some of the focus areas of this unit, read the following recommended articles:

- Lynch, J. P. (2006). Problems and promise of victimization surveys for cross-national research. *The University of Chicago Crime and Justice*, 34, 229–287.
- Chang, S. (2005). The prodigal "son" returns: An assessment of current "Son of Sam" laws and the reality of the online murderabilia marketplace. *Rutgers Computer and Technology Law Journal*, 31(2), 430–458.

Suggested Websites

Review the following websites, which relate to the topics of this unit.

- Los Angeles County District Attorney's Office. (n.d.). [Victim Services](#).
 - Example of a victim assistance program option.
- National Archive of Criminal Justice Data. (n.d.). [National Crime Victimization Survey Resource Guide](#).
 - National Crime Victimization Survey information.

u09d1 - Criminal Law and Law Enforcement

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.

Introduction

Early social norms, before the emergence of the criminal justice system, resorted to the support of family and friends in finding and exacting revenge against those who had victimized them. Eventually, crimes came to be viewed as offenses against society. Modern day philosophy has evolved to recognize the need for the system to focus upon the victim as someone more than a mere witness or the target of criminal activity. Many states now have evidence rules that prohibit the introduction of certain types of conduct, statements, and offers made by the defendant to the crime victim. Some states have built the philosophy of victims' rights into statutes, which call for specific rights of protection, notice, and reparation to victims. Some states have even ratified constitutional amendments to protect the rights of victims.

In your main post, with respect to prohibiting the introduction of certain types of conduct, statements, and offers made by the defendant to the crime victim, discuss the following:

- Examine whether evidence rules prohibiting the introduction of certain types of conduct, statements, and offers made by the defendant to the crime victim exist in your state with respect to victims.
- Determine why such evidence should be excluded if it is relevant to whether the defendant committed the offense.
- Explore the public policy reasons that exist for excluding such evidence.
- Evaluate the effect such rules have on your duties as a criminal justice professional.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Examine evidence rules with respect to victims.
 - Determine why evidence is excluded if it is relevant to whether the defendant committed the offense.
 - Explore public policy rationale for excluding evidence of certain types of conduct, statements, and offers made by the defendant to the crime victim.
 - Evaluate the effect of evidence rules on the duties of a criminal justice professional.

Response Guidelines

Interact with other learners about the introduction of certain types of conduct, statements, and offers made by the defendant to the crime victim. In your response, address the following:

- What are the similarities and differences in your perspectives regarding the prohibition of such evidence, and why?
- Did you advance similar positions regarding why such evidence should be excluded if it is relevant to whether the defendant committed the offense? Why or why not?
- Does there appear to be a consensus among learners about the public policy reasons that exist for excluding such evidence?
- Did you share the same view with others as to the effect such rules have on your duties as a criminal justice professional? Why or why not?

Respond to the posts of at least two peers. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

[Community of Excellence](#)

G.R.E.A.T. Discussion Guidelines

[Criminal Justice Undergraduate Research Guide](#)

u09d2 - Victim Impact Evidence

Competencies Addressed in This Discussion

Competency 1: Examine criminal law and procedure.

Introduction

Victims' rights have grown tremendously over time. Victim impact statements are now widely accepted and may take the form of written documents as part of the probation department's presentence report furnished to the court. These statements allow a victim or the family of a victim to describe their loss, suffering, and trauma experienced from the crime. Many jurisdictions also allow for oral allocution which is the right to make a statement in open court prior to the court imposing sentence. The impact of these statements on courts, however, is questionable.

Although generally acceptable, there are due process limits to the admission of victim impact evidence. Such evidence that is considered unnecessarily duplicative or prejudicial may be excluded by trial courts. Trial judges must make the decision of allowing victim impact evidence after considering the relative value-added status of the victims.

For your main post, locate a case addressing the issue of victim impact statements, as was addressed in *Payne v. Tennessee* and respond to the following:

- Summarize the facts and court holding in your selected victim impact evidence case.
- Examine if such evidence is not included in the statutory aggravating factors in your jurisdiction.
- Analyze the constitutional implications victim impact evidence may have in the context of a capital murder offense.
- Explain whether you, as a criminal justice professional, feel that the Eighth Amendment should bar the admissibility of victim impact evidence during the penalty phase of a capital murder trial.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Summarize a victim impact evidence case.
 - Examine whether victim impact evidence is included in statutory aggravating factors.
 - Analyze constitutional implications impact evidence may have on a capital murder offense.
 - Explain whether the Eighth Amendment should bar the admissibility of victim impact evidence during the penalty phase of a capital murder trial.

Response Guidelines

Interact with other learners about the facts and court holding in your selected victim impact evidence case. In your response, address the following:

- Did you have similar findings regarding whether such evidence is not included in the statutory aggravating factors in your respective jurisdictions? What accounts for those similarities or differences?

- Did you reach similar conclusions on your evaluations of the constitutional implications impact evidence may have on a capital murder offense? Why or why not?
- Did you agree or disagree with others about whether the Eighth Amendment should bar the admissibility of victim impact evidence during the penalty phase of a capital murder trial? Why?

Learner should respond to the posts of at least two peers. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

CJ Discussion Scoring Guide

G.R.E.A.T. Discussion Guidelines

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Unit 10 >> Punishing and Sentencing

Introduction



© iStockphoto

Competency 1: Examine criminal law and procedure.

Competency 2: Articulate the historical development of criminal law.

Competency 3: Distinguish between legal and social parameters in criminal law.

Competency 4: Analyze the elements of a crime.

Competency 5: Communicate effectively in writing.

Introduction: The Final Stage of a Criminal Trial

Sentencing is the final stage of a criminal trial. This area of law requires close examination of sentencing rationales, criminal sanctions, traditional sentences, and other dynamics related to punishment and sentencing for crimes. Crimes are distinguished from other wrongs in society based upon the consequences. The government blames, convicts, and punishes the wrongdoer, fulfilling the expectations of society.

There are five rationales for imposing a sentence upon a wrongdoer. Of these rationales, retribution is the most punishment-oriented of all sentencing goals, with a simple rationale that the offender deserves to be punished. This is similar in approach to the classic, biblical "eye for an eye" philosophy. Retribution or the concept of just deserts is based upon the premise that society may impose punishment as a form of vengeance. Since the offender has committed a crime, society has a right to inflict an equal form of punishment on that person. Deterrence is based on the premise that criminal sanctions communicate to the public that they should not commit crimes because they could be punished. The primary deterrent to crime is often thought to be fear of punishment. Since both law-abiding citizens and criminals are reasoning beings, the consequences of committing a crime and facing a variety of punishments, act as a deterrent to crime. Proponents of this theory argue for quick and punitive sentencing as a means of controlling crime. The validity of this position is based upon the premise that punishing one offender for a crime will deter others from committing the same type of crime.

Rehabilitation focuses on reduction or elimination of the offender's crime-committing propensity after release from confinement. Rehabilitation attempts to modify the offender's conduct by administering some form of treatment under the supervision of criminal justice personnel. Rehabilitation efforts include vocational training, mental health counseling, educational opportunities, and elimination of alcohol or drug dependency. These activities may occur while the offender is in custody or on supervised parole or probation.

Incapacitation is the removal of the offender from society. This prevents criminals from continuing their criminal activities and protects law-abiding citizens from further criminal acts by one specific person. Incapacitation implies warehousing the offender. Penal institutions simply become holding facilities to keep offenders off the streets.

Finally, restoration is focused on a crime's emotional and financial toll on the victim and aimed at restoration of the victim and community to be whole. This may include restitution to compensate the victim for his or her loss.

There are several constitutional provisions that come into play during sentencing and punishment. The most significant provisions in the Constitution regarding sentencing and punishment are found in the Eighth Amendment. For example, the excessive bail clause in the Eighth Amendment is the only clause not to have been incorporated. In other words, it does not apply to the states. In addition, with respect to the issue of cruel and unusual punishment, the Supreme Court has held that the concept of cruelty is changing, which has resulted in an explosion of Eighth Amendment airplay and case law in recent decades.

Reference

Schmallegger, F. J., & Hall, D. E. (2017). *Criminal law today* (6th ed.). Boston, MA: Pearson.

Learning Activities

u10s1 - Studies

Required Readings

In your *Criminal Law Today* text, read the following:

- Chapter 14, "Punishment and Sentencing," pages 465–508. This chapter investigates sentencing rationales, criminal sanctions, traditional sentences, and other dynamics related to punishment and sentencing for crimes.

Use the Capella library to read the following:

- [The slow death of the death penalty](#). *The Economist*, 411(8884), 27–29.

Videos

- Open University (Producer). (2010). [America and capital punishment](#) [Video]. Films on Demand.
 - Running time: 02:10.

Suggested Readings

It is recommended that you read the following articles. These will help you gain an understanding of some of the focus areas of this unit.

- Maxfield, L. D., & O'Neill, M. E. (2004). Judicial perspectives on the federal sentencing guidelines and the goals of sentencing: Debunking the myths. *Alabama Law Review*, 56(1), 85–119.
- Tonry, M. (2005). The functions of sentencing and sentencing reform. *Stanford Law Review*, 58(37), 37–66.

Suggested Websites

- The FBI: Federal Bureau of Investigation. (n.d.). [Hate Crimes](#).
 - FBI information about hate crimes.
- U.S. Department of Justice, Office of Justice Programs. (1997). [A Policymaker's Guide to Hate Crimes](#).
 - Policy guide for hate crimes.
- [United States Sentencing Commission](#). (n.d.).
 - Looks at sentencing guidelines.

u10a1 - Connecting Your Learning

Competencies Addressed in This Assignment

- Competency 1: Examine criminal law and procedure.

- Competency 2: Articulate the historical development of criminal law.
- Competency 3: Distinguish between legal and social parameters in criminal law.
- Competency 4: Analyze the elements of a crime.
- Competency 5: Communicate effectively in writing.

Overview

The criteria in the Scoring Guide for this assignment are directly aligned to Competencies 1–4 for the course.

- Competency 1: Examine criminal law and procedure.
- Competency 2: Articulate the historical development of criminal law.
- Competency 3: Distinguish between legal and social parameters in criminal law.
- Competency 4: Analyze the elements of a crime.

Throughout the class, you have examined the rules of criminal procedure that govern its application and historical development of criminal law. Through various scenarios and analysis of specific crimes, you have learned to distinguish between the social and legal definitions of crime through the dissection of the various elements of crimes. The challenge was to delve deep into these scenarios from the perspective of a criminal justice professional and exchange opinions based on these analyses to further your learning.

Instructions

Prepare a 4- to 6-page paper (1–1.5 pages per competency for Competencies 1 through 4), focused on the course competencies and address two key areas of learning for each competency. Competency 5 will be showcased through your coverage of Competencies 1–4. This paper should showcase your learning proficiency and describe the importance of your learning relative to application in a career context. This assignment should be placed in your ePortfolio for future reference, and to demonstrate your learning connections for future employment purposes.

Be sure to review the Connecting Your Learning Scoring Guide to ensure you understand the criteria for this assignment.

Requirements

- **Written communication:** Must be free of errors that detract from the overall message.
- **Resources and citations:** Format according to APA (current edition) guidelines.
- **Required page count:** 4–6, not including the title page or the references page.
- **Required number of references:** One reference per competency.
- **Font and font size:** Times New Roman, 12 point.

You are required to submit a draft of your paper to SafeAssign. Once you review your results and make any needed changes, submit your paper for grading.

Portfolio Prompt: This assignment should be placed in your ePortfolio for future reference, and to demonstrate your learning connections for future employment purposes.

Course Resources

[Legal Research Guide](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

[The Writing Center](#)

[Smarthinking](#)

[SafeAssign](#)

[APA Paper Template \[DOC\]](#)

[ePortfolio](#)

u10d1 - Analyze Capital Punishment and the Death Penalty Using Different Perspectives

Competencies Addressed in This Discussion

- Competency 1: Examine criminal law and procedure.
- Competency 3: Distinguish between legal and social parameters in criminal law.

Introduction

Capital punishment, or the death penalty, can be analyzed from three different perspectives: the legal perspective; the philosophical, oral, and ethical perspective; and the analysis of empirical data on deterrence, public opinion, and so on. The constitutionality of the death penalty under Eighth Amendment continues to be a controversial legal issue. Some members of the court have felt that it is a barbaric punishment that has no place in a civilized society. Others have taken the view that the mention of capital crimes in the Fifth Amendment is sufficient evidence that the imposition of capital punishment is constitutionally permissible under appropriate circumstances.

In your main post, respond to the following from a criminal justice practitioner's perspective, supported by legal reasoning:

1. Describe the capital crime or crimes in your jurisdiction.
2. Articulate your position as to whether capital punishment is an appropriate punishment for offenses other than murder.
3. Explain your perspective as to whether the manner in which capital punishment is imposed is a question of legality, morality, or emotion, considering public opinion.
4. Explore how the implementation and enforcement of capital punishment could affect the mindset, philosophy, and/or actions of a criminal justice practitioner in carrying out their duties.

Discussion Objectives

- Competency 1: Examine criminal law and procedure.
 - Describe capital crimes in various jurisdictions.
 - Articulate whether capital punishment is appropriate for offenses other than murder.
- Competency 3: Distinguish between legal and social parameters in criminal law.
 - Explain whether the type of capital punishment imposed is a legal, moral, and/or emotional question.
 - Explore the effects of implementation and enforcement of capital punishment on the mindset, philosophy, and actions of a criminal justice practitioner.

Response Guidelines

Interact with other classmates about the capital crimes in your jurisdiction. In your response, address the following:

- Are the capital crimes similar or different?
- Do you share similar viewpoints about whether capital punishment is an appropriate punishment for offenses other than murder? Why or why not?
- What are the similarities and differences in perspectives regarding whether the type of capital punishment imposed is a question of legality, morality, or emotion?
- Do other classmates share your views on the impact of capital punishment on the actions of a criminal justice professional? Why or why not?

Respond to the posts of at least two classmates. APA citations are not required for Discussions. If outside material is used, you are required to cite references.

Course Resources

[CJ Discussion Scoring Guide](#)

[G.R.E.A.T. Discussion Guidelines](#)

[Community of Excellence](#)

[Criminal Justice Undergraduate Research Guide](#)

Scoring Guides

[u02a1 - Precedent and Causation in Law Enforcement Scoring Guide](#)