

**Chapter 7**  
**The Regulation of Business**  
**Through Criminal Law**

1 Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

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**Introduction**

- Once legal activities now illegal
- Criminal regulations in place
- Identifiable victim
- Criminal activity injures society
- Appropriate gov't office brings suit

2 Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

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**Classification of Crimes**

- Crimes can be classified by seriousness
  - Felonies
  - Misdemeanors
  - Petty offenses
- Crimes may be classified according to their nature
  - Crimes against persons
  - Crimes against property
  - Crimes against the government
- Criminal codes define the criminal elements, levels of seriousness, and penalties available

3 Source: Bohlman/Dundas, The Legal, Ethical, & International Environment of Business

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## Criminal Statutory Law

- Commission
- Omission

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## Constitutional Safeguards

- Burden of proof is guilt beyond a reasonable doubt
- Miranda rights
  - Right to remain silent
  - Anything you say can be used against you in a court of law
  - Right to the presence of an attorney
  - If you cannot afford an attorney, one will be appointed for you

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## Criminal Procedure

- To protect a suspect's rights:
  - A warrant must be issued with probable cause
  - The state must formally charge the accused, using a grand jury or magistrate
  - At trial, the burden of proof is on the prosecutor

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## Elements of Criminal Responsibility

- Criminal intent (*mens rea*)
  - Thoughts by themselves are insufficient to constitute a crime, but...
  - Four categories
    - Purpose
    - Knowledge
    - Recklessness
    - Negligence
- Criminal conduct (*actus reus*)
  - Some statutes require only criminal action without commensurate criminal intent

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## US v. Park Landmark Case

- Defendant, president of a large national food chain, had no criminal intent, but he was still convicted of the crime of having rodents contaminating the food in one of the chain's large warehouses
- For conviction, only the wrongful conduct of producing adulterated food that was in interstate commerce was required

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## Attempts and Conspiracies

- Attempt
  - Overt act is undertaken, but the crime is not committed
- Conspiracy
  - Person agrees with one or more other people to commit a crime

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## Crimes Affecting Businesses

- Offenses against property
  - Burglary
  - Larceny
  - Robbery
  - Arson
- White collar crimes
  - Receiving stolen goods
  - Obtaining goods or money by false pretenses
  - Embezzlement
  - Mail fraud
  - Computer crimes

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## Crimes Businesses Commit

- Corporate crime
- Businesses can be responsible for the criminal conduct of their employees under certain circumstances
  - Legislative purpose of law is for criminal liability
  - Legal statutory duty to perform
  - Act accepted by employer

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## Corporate Crime-RICO

- Racketeer Influenced and Corrupt Organizations Act
  - Criminal
    - A pattern of racketeering activity (two or more acts within ten years of each other)
    - Racketeering acts are 50 specific federal crimes
  - Civil
    - Plaintiff must show that he was harmed by a business's illegal action and that two or more racketeering acts were committed within ten years of each other
    - Civil actions can be brought by the government or a private party

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## Racketeering Punishment

- Divestiture
- Dissolution
- Reorganization

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## Corporate Crime

- Foreign Corrupt Practices Act
- Bankruptcy fraud
- Regulatory offenses
- Obstruction of justice
- Currency offenses
- Patriot Act

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## Defenses

- Primary defense against criminal activity is that the prosecutor has not proven guilt beyond a reasonable doubt

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## Other Defenses

- Double jeopardy
- Self defense
- Entrapment
- Incapacity
- Intoxication
- Fraud

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## International Considerations

- International criminal law is a definitive body of law that is very limited in scope
- Remedies
  - United Nations
  - Extradition

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## Summary

- Classification of Crimes
- Constitutional Safeguards
- Criminal Procedure
- US v. Park
- Elements of Criminal Responsibility
- Attempts and Conspiracies
- Crimes Affecting Businesses
- Responsibility of Businesses
- RICO
- Defenses
- International Considerations

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