

The Regulation of Business Through Criminal Law

Chapter 7

Classification of Crimes

- Crimes can be classified by seriousness
 - Felonies
 - Punishable by imprisonment for more than a year, fine, or death
 - Misdemeanors
 - Punishable by fines, confinement up to a year, or both
 - Petty offenses
 - Generally not classified as crimes, but rather as civil matters
- 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

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

Dickerson v. United States

- Case that applies *Miranda*
- Petitioner (Dickerson) moved to suppress a statement he made to the FBI because he was not read the *Miranda* warnings
- Ruling: Congress may not overrule *Miranda* by legislation

Criminal Procedure

- To protect a suspect's rights:
 - A warrant must be issued with probable cause
 - Substantial likelihood the accused has committed a crime
 - The state must formally charge the accused, using a grand jury or magistrate
 - Indictment: Issued by the grand jury
 - Bill of Information: Issued by magistrate
 - At trial, the burden of proof is on the prosecutor

Elements of Criminal Responsibility

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| <ul style="list-style-type: none">■ Criminal intent (<i>mens rea</i>)– Thoughts by themselves are insufficient to constitute a crime | <ul style="list-style-type: none">■ Criminal conduct (<i>actus reus</i>)– Some statutes require only criminal action without commensurate criminal intent |
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United States v. Park

Landmark Case

- Defendant: President of Acme Markets, Inc.
- Decision: Even though the defendant had no actual criminal intent, 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.

Attempts and Conspiracies

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| <ul style="list-style-type: none">■ Attempt– Overt act is undertaken, but the crime is not committed | <ul style="list-style-type: none">■ Conspiracy– Person agrees with one or more other people to commit a crime |
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Crimes Affecting Businesses

- Offences against property
 - Burglary
 - Larceny
 - Robbery
 - Arson
- White collar crimes
 - Receiving stolen goods
 - Obtaining goods or money by false pretenses
 - Trademark Counterfeiting Act
 - False Statement Act
 - Embezzlement
 - Mail fraud
 - Computer crimes
 - Counterfeit Access Device and Computer Fraud and Abuse Act
 - Electronic Communications Privacy Act
 - Information Infrastructure Protection Act
 - Identity Theft and Assumption Deterrence Act
 - No Electronic Theft Act

Responsibility of Businesses

- Corporate Crime
 - Generic term that covers crimes businesses or business people commit
- Businesses can be responsible for the criminal conduct of their employees under certain circumstances
 - Within the scope of employment
 - Legal statutory duty to perform a specific function
 - Authorized, requested, dictated, performed, or recklessly tolerated

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

Defenses

- Primary defense against criminal activity is that the prosecutor has not proven guilt beyond a reasonable doubt
- Other defenses
 - Double jeopardy
 - Fifth Amendment
 - Self defense
 - Entrapment
 - Incapacity
 - Intoxication
 - Fraud
