

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

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

## 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