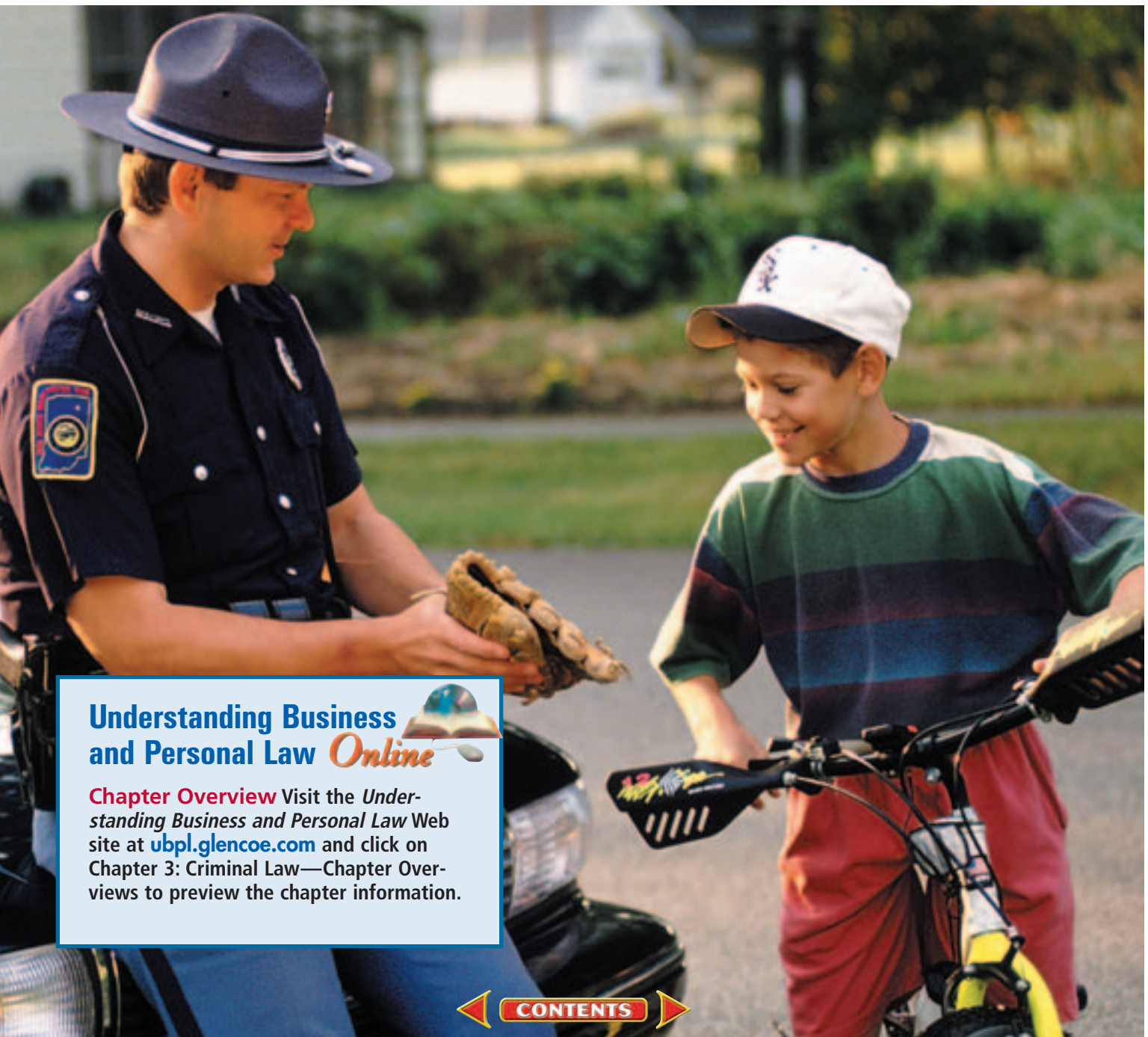


Criminal Law



Understanding Business and Personal Law *Online*



Chapter Overview Visit the *Understanding Business and Personal Law* Web site at ubpl.glencoe.com and click on Chapter 3: Criminal Law—Chapter Overviews to preview the chapter information.

The Opening Scene

During lunch in the cafeteria, Jamila, Trai, Peggy, and Daniel discuss their plans for the Friday night football game in a neighboring town.

Crime and Punishment

JAMILA: Hey Trai, I need a ride to the football game tonight. I figured that I could catch one with you. What time can you pick me up?

TRAI: *(Looking in Daniel's direction.)* I'm always the driver. In fact, I drove last week. I was hoping to catch a ride with Daniel.

DANIEL: *(Sheepishly.)* I know that it's my turn, but it's not going to happen. My dad said it's too dangerous to go to a game at Danville High. He read the newspaper article about what happened in the chemistry lab last month. I tried to beg him, but he wouldn't change his mind. You know how he is.

PEGGY: Are you kidding? Your father is so overprotective! Danville isn't dangerous. Does your dad know what really happened over there?

TRAI: Yeah, it's just a case of a small fire that one kid started. It doesn't mean the whole school is dangerous. You can't judge an entire school based on the behavior of one person. Plus, they caught the guy who did it, and he's been charged with arson.

JAMILA: Arson! Wow! I'm not sure, but I think that may be a federal offense. I bet the penalty for that is tough—students there are going to be on their best behavior for a long time.

PEGGY: I think the guy who did it got in trouble for something he was doing on the Internet, too. He sounds like he has some big problems. What's going to happen to him, anyway?

TRAI: I read in the paper that his lawyer is going to plead insanity.

DANIEL: *(Throwing his hands up in the air.)* Great! He'll end up getting off with nothing. It's not fair. He deserves to be punished.



PEGGY: *(Frowning.)* I'm not sure that I consider a lengthy stay at a state mental institution a good time. Mental institutions are not luxury hotels, you know.

JAMILA: I don't think it's fair for him to be able to plead insanity. Can't anybody claim insanity just to get out of going to jail?

TRAI: *(Crumpling up his lunch bag.)* How should I know? Maybe you'd better check with Mrs. Martinez. Right now, let's worry about getting to the football game tonight. That kid will get what he deserves, whatever that may be. Daniel, my mom's car is in the shop, and my dad is out of town on a business trip. You've got to drive tonight, or we won't be able to go.

PEGGY: Tell your dad what we just talked about. You can convince him. Better yet, I'll help you talk to him. Your dad likes me.

DANIEL: *(Reluctantly.)* I guess we can talk him into it. How about if I pick everybody up around six o'clock?

What Are the Legal Issues?

1. What is the difference between federal and state law?
2. What are some specific crimes that are part of our legal system?
3. What statutes have been passed to address computer crimes?
4. What defenses are available for criminal defendants?

What Is a Crime?

What You'll Learn

- How to tell the difference between serious and less serious crimes
- How to explain the difference between state and federal criminal law
- How to explain the elements of a crime
- How to define the various defenses to criminal liability

Why It's Important

Learning the essence of criminal law, the types of crimes that can be committed, and the nature of criminal defense will help you understand our criminal justice system.

Legal Terms

- crime
- plaintiff
- prosecutor
- defendant
- felony
- misdemeanor

Classifications of Crimes

Crime is considered an act against the public good. Our laws in the United States detail crimes and provide punishment by fine, imprisonment, or both. In a criminal proceeding, the state or federal government, representing the public at large, is the **plaintiff**, or the party that accuses a person of a crime. The **prosecutor** is the government attorney who presents the case in court against the person accused, called the **defendant**.

Felonies

A **felony** is a major crime punishable by imprisonment or death. The punishment set for a particular crime determines whether it is a felony. Murder, manslaughter, burglary, robbery, and arson are examples of felonies. Some states, such as New Jersey, do not use the word *felony*. New Jersey labels its most serious crimes “high misdemeanors.” See Figure 3.1 to view statistics on crime in the United States.

Misdemeanors

A less serious crime with a less severe penalty is a **misdemeanor**. Misdemeanors are penalized by a fine or brief imprisonment in a county or city jail. Driving an automobile without a license, lying about one’s age to purchase alcohol, and leaving the scene of an automobile accident are examples of misdemeanors. Some states also classify lesser crimes as minor misdemeanors or petty offenses. Typical examples of these types of offenses include some traffic and parking violations.

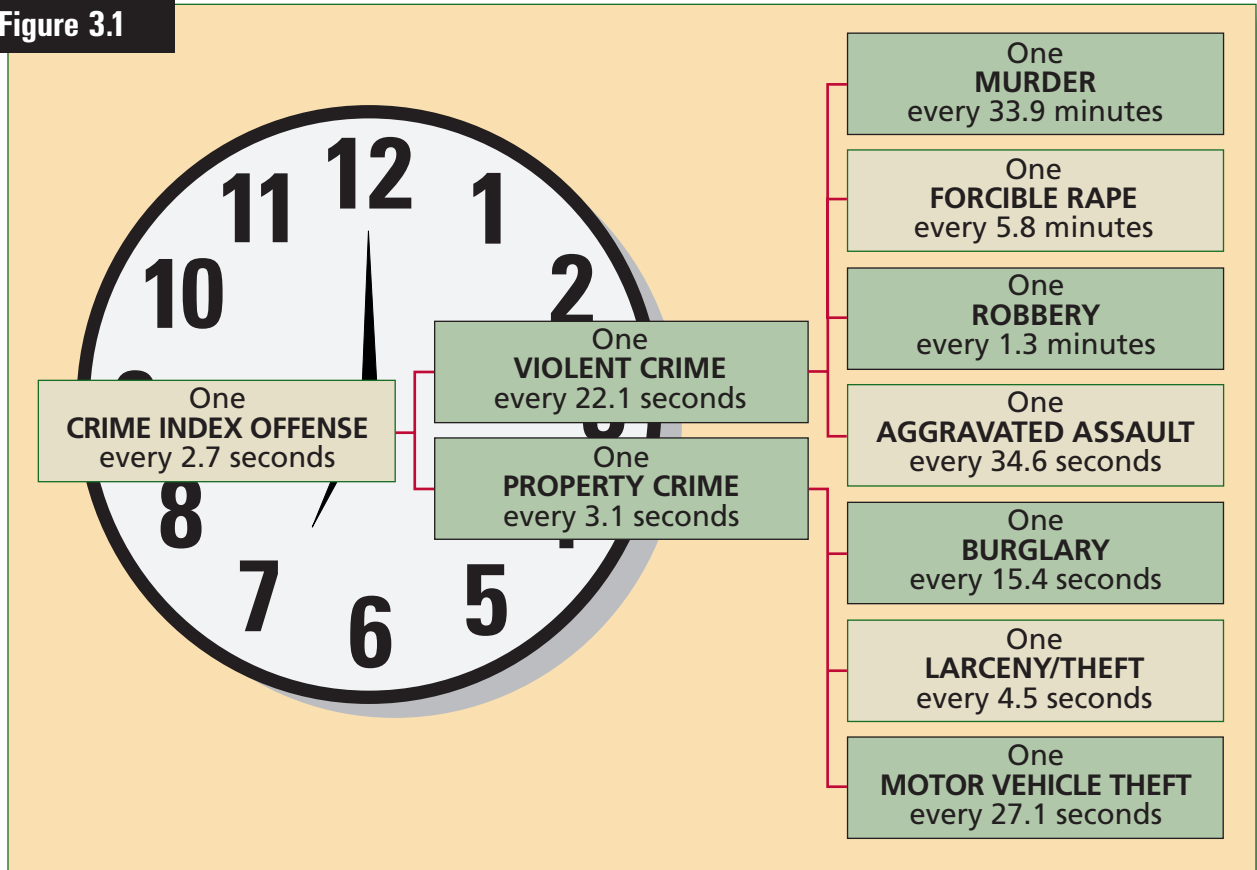
Criminal Law in the American System

The American legal system actually consists of two systems: the federal system and the state system. Both systems make and enforce criminal law, but the source of their power for making criminal law differs.

State Criminal Law

Each state government has inherent police power, allowing it to make statutes to protect the public health, safety, welfare, and morals.

Figure 3.1



Although state laws closely resemble each other, the exact definitions and penalties for crimes may differ from state to state. For instance, a crime that is called assault in one state may be called battery in another.

Federal Criminal Law

Unlike state governments, the federal government has no police power. When the Constitution was written in 1787, its authors imposed limits on the powers granted to the national government. One limitation was the act of withholding the general police power enjoyed by the states. Consequently, the federal government is able to create criminal statutes only in areas over which it has jurisdiction. For example, the federal government has created laws against counterfeiting because it has the power to coin money.

Today, however, the federal government does have a criminal code and several national police agencies, including the Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA). The federal government's power to establish these agencies comes primarily from the commerce clause of the U.S. Constitution, which requires

A CRIME INDEX

As this crime index indicates, the rate at which crimes are committed in this country is quite consistent.

Why does the crime rate remain so steady despite the efforts of our law enforcement officials and the criminal court system?



Crime and Punishment

The U.S. Supreme Court has ruled that it is unconstitutional to execute mentally impaired criminals. According to the Court majority, there is a “national consensus” against such executions and they would violate the Eighth Amendment’s prohibition of “cruel and unusual” punishment. *Do you agree with the Court? Do you think similar considerations should preclude applying the death penalty to juveniles? Why or why not?*

Get Involved

Find out what the Eighth Amendment says about “cruel and unusual” punishment and research how the Supreme Court has interpreted this phrase. Then write to your congressperson and express how you feel about placing juvenile offenders on death row.

Congress to regulate commerce among the states. As a result, federal criminal law statutes must involve some sort of interstate activity.

Treason Treason is one crime named and defined in the U.S. Constitution. A confession in open court or the testimony of two witnesses verifying the same overt act of treason is required to convict someone of treason.

Double Jeopardy The federal and state systems of justice sometimes overlap. For example, both federal laws and state laws address the manufacture, sale, and use of illicit drugs. This overlap can create a problem for a person who has been accused of a crime that could be construed as both a federal and a state crime. The Fifth Amendment of the Constitution guarantees that no person can be tried twice for the same crime, a principle known as double jeopardy. In practice, however, the courts have held that although an individual may not be tried twice for the same crime in the same court, he or she may be tried twice for the same actions in two different courts.

Elements of a Crime

A crime is defined by two elements: the criminal act and the required state of mind. The two elements may be defined somewhat differently by the states, but definitions are similar enough to allow certain generalizations.

Criminal Act

Most criminal statutes specifically explain conduct that is forbidden. For example, a statute that makes stealing a crime specifically prohibits the wrongful taking of another person’s personal property. Some criminal law statutes, however, make failure to act a crime. For instance, a young man who fails to register for the draft after reaching his eighteenth birthday has committed a crime.

A criminal act must also involve voluntary conduct. Similarly, a person cannot be accused of a crime if that accusation is based on one’s physical or mental status or condition. For example, the government could not make it a crime to be an alcoholic because alcoholism is a physical condition. However, the government can have laws regarding at what age a person can consume alcohol.

Required State of Mind

The second element establishing a crime is the required state of mind. A statute defining murder forbids the *intentional* taking of a person’s life; the required mental state is intent. In contrast, a statute

defining involuntary manslaughter outlaws the *accidental* taking of a person's life. In both statutes the criminal act involves taking a life, but the crime changes according to the state of mind of the person committing the act.

Motive

When television and movie detectives hunt for a criminal, they always seem to make the motive for a crime a crucial part of their case. This is misleading because motive actually plays no part in proving criminal liability. If a person has committed a forbidden act with the required state of mind, then he or she is criminally liable, regardless of motive.

Defenses to Crimes

If you were a defense attorney, your job would be to try to show that the prosecution failed to prove the required elements for the crime charged to your client. The most common defenses include insanity, entrapment, self-defense, and defense of family members.

LAWS in Your Life

Teen Courts

Authorities have long sought ways to reduce teen crime. One approach that many communities have adopted is to establish teen courts. In teen courts, teenagers serve as jurors, defense attorneys, and prosecutors. The courts hear the cases of teens who have committed a minor, first-time offense. These offenders get a chance to avoid the record that would result from a juvenile court proceeding. They also learn a valuable lesson in how the law works.

Teen courts began in Texas in the 1970s and have since spread to more than 30 states. They often are supported by funds from school districts, traditional courts, or by civic groups that hope to reach young offenders before they become hardened criminals. Statistics show that teen crime is generally down in communities where such programs exist.

Conduct Research Call or write the municipal governments in your area to determine whether they have teen courts and how these courts work.

Insanity

American law recognizes that people cannot be held responsible for their actions if they do not know what they are doing. This recognition makes insanity a valid defense to criminal conduct.

The oldest legal test of insanity is the *M’Naughten Rule*, developed in England in 1843. To be deemed legally insane under this rule, a defendant must be proven to suffer from a mental disease so serious that he or she did not know the nature or moral inappropriateness of an illegal action at the time it was committed. This test is still used in about two-fifths of U.S. states.

The American Law Institute (ALI) has developed a more modern test for insanity. A person is not considered responsible if “as a result of mental disease or defect he or she lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.” About three-fifths of U.S. states follow the ALI test.

People who are found not guilty by reason of insanity do not automatically go free. Rather, they are committed to institutions and must undergo periodic psychiatric examinations. These people are released only when they are found to be sane.

Entrapment

If a law enforcement officer induces a law-abiding citizen to commit a crime, the person can use a defense known as entrapment. The defense must show that the crime would not have been committed without the involvement of the officer.

Example 1. Several students told Mrs. Martinez that Grant offered to sell them drugs. When she reported this to the police, an undercover officer was sent to the school. Grant tried to sell the officer some drugs, and the officer arrested Grant. The defense of entrapment could not apply because Grant would have sold the drugs regardless of the officer’s intervention.

Self-Defense

When people have good reason to believe they are in danger of serious injury or death, they can use force to protect themselves. This defense is known as self-defense. A person claiming self-defense must have tried to retreat before resorting to force. If an attack occurs in one’s own home, however, a person does not need to retreat. Defendants must also show that they did not start the altercation and that they did not use excessive force to stop the attack.

Defense of Family Members

Most states will not punish someone for using force to rescue a family member from attack. As in self-defense, the rescuer must have good reason to believe the victim was in danger of severe bodily injury or death. Figure 3.2 displays the criminal defenses available to defendants.

Example 2. Mark returned home one evening to find his sister being attacked in their living room. He struck and injured his sister's assailant. Most states would allow Mark to use defense of family members to explain his actions.

Figure 3.2

Criminal Liability and Defenses

Criminal Liability	Criminal Defenses
<p>The act:</p> <ul style="list-style-type: none"> Criminal behavior specifically outlined by statute <p>The mental state:</p> <ul style="list-style-type: none"> Mental state specifically outlined by statute Purpose Knowledge Recklessness Negligence 	<p>Defenses to the act:</p> <ul style="list-style-type: none"> Act as defined is "status" only Act as defined is ambiguous Act as defined is overbroad <p>Defenses to the mental state:</p> <ul style="list-style-type: none"> Insanity Entrapment Justifiable force Mistake

CRIMINAL LIABILITY AND DEFENSES

A proper understanding of the relationship between the elements of criminal liability and the chief criminal defenses is at the heart of criminal law. *Which of the two elements of criminal liability does the insanity defense seek to eliminate?*

Section 3.1 Assessment

Reviewing What You Learned

1. What determines the difference between a felony and a misdemeanor?
2. How do state and federal criminal law differ?
3. What are the elements of a crime?
4. What are the major criminal law defenses?

Critical Thinking Activity

Legal Defenses Why is it crucial to understand the different defenses to criminal liability?

Legal Skills in Action

The Insanity Defense Many people have misconceptions about the insanity defense in the American legal system. They often see it as a way for criminals to go free without serving time for their offenses. Imagine that you are a legal columnist for a newsletter intended for people who support civil liberties. Write a column in which you defend the insanity defense as a necessary part of the American legal system.

Particular Crimes

What You'll Learn

- How to define major crimes against people
- How to define major crimes against property
- How to define major crimes that involve controlled substances
- How to define major crimes that involve computers

Why It's Important

Learning how to distinguish among various crimes will help you understand criminal liability.

Legal Terms

- murder
- manslaughter
- battery
- assault
- kidnapping
- burglary
- larceny
- embezzlement
- robbery
- arson
- vandalism
- shoplifting

Crimes Against People

Generally, crimes can be grouped under three headlines: crimes against people, crimes against property, and crimes against business interests. The killing of one human being by another is known as homicide. Justifiable homicide takes place when a police officer kills a criminal in the line of duty or in self-defense. This type of homicide also takes place when a soldier kills the enemy in battle. When someone is killed by accident, the death is an excusable homicide.

Murder

Under the law, **murder** is the unlawful killing of another human being with malice aforethought, which means the killer had evil intent. In many states, murder is divided into first-degree murder and second-degree murder.

The definition of first-degree murder, also called aggravated murder, differs from state to state. However, first-degree murder generally involves one or more of the following circumstances: killing with premeditation (thinking about or planning the crime in advance); killing in a cruel way, such as with torture; and killing while committing a felony, such as rape or robbery. If none of these conditions apply, the crime is considered second-degree murder. The distinction between first- and second-degree murder is important because in some states those found guilty of first-degree murder are subject to the death penalty.

Manslaughter

The unlawful killing of another human being without malice aforethought is known as **manslaughter**, which can be divided into two categories: voluntary and involuntary. Voluntary manslaughter occurs when one person intends to kill another but does so suddenly and as the result of great personal distress. The wrongdoer must have become very upset before the killing.

Example 3. Alex Fielder's son was kidnapped and murdered. When the police caught the kidnapper, he immediately confessed. The next day, while being interviewed at the police station, Alex saw the kidnapper being transported to another part of the jail. In a sudden rage, Alex grabbed a nearby

officer's service revolver and shot the kidnapper dead. Alex was charged with voluntary manslaughter.

Involuntary manslaughter occurs when one person, while committing an unlawful or reckless act, unintentionally kills another.

Example 4. Rosco McMurphy and Max Cavendish live in a state in which drag racing is a misdemeanor. They challenged each other to a drag race on the outskirts of town. Both cars hit a top speed of 95 miles per hour in an area where the speed limit was 45 miles per hour. Rosco lost control of his car and crashed into a crowd of spectators, killing two of them. Consequently, he was charged with involuntary manslaughter.

If drag racing were a felony in the state in which the race occurred, then Rosco, Max, and anyone else who had taken part in the drag race could be charged with murder. A killing that takes place during a felony is murder.

Assault and Battery

The unlawful touching of another person is known as **battery**, and it usually involves the forceful use of a person's hand, knife, or gun against another. Battery may also be committed by giving poison or drugs to an unsuspecting victim, spitting in someone's face, commanding a dog to attack someone, or even kissing someone who does not want to be kissed. Accidentally bumping someone in the cafeteria line at school would not be battery, because the crime requires criminal intent or at least reckless behavior.

An **assault** is an attempt to commit a battery. Pointing or shooting a gun at someone is the assault; the bullet striking the person is the battery. Some states no longer follow the common law distinction between assault and battery. Ohio, for example, has eliminated the term *battery* from its criminal code and substituted *assault* by itself.

Simple assault and battery are generally misdemeanors. Aggravated assault and aggravated battery, however, are felonies in most states. To qualify as an aggravated offense, the assault or battery would have to be committed with a deadly weapon, or with the intent to murder, commit rape, or commit robbery. Some states call aggravated assault felonious assault.

Kidnapping

The unlawful removal or restraint of a person against his or her will is called **kidnapping**. Often, a kidnapping victim is forced to be



Ethical Crime?

Is there such a thing as an ethical crime? In other words, if an act is a crime, is it automatically unethical as well? Consider the story of Robin Hood, who stole from the rich and gave to the poor. Imagine a clerk employed at a multi-billion dollar corporation who embezzles money and donates it to a homeless shelter.

Would you consider the clerk's behavior ethical or unethical?

Legal Briefs

The television show *America's Most Wanted* was started by host John Walsh after his six-year-old son was abducted and murdered. Because of the television series, 755 criminals have been apprehended, as of July 2003.

a captive. Kidnapping usually includes unlawful imprisonment for ransom, terrorism, torture, rape, or to commit a felony.

Sex Offenses

In the past, the crime of rape included only two types of situations: a male forcing a female to have sexual intercourse and a male having sexual intercourse with an underage female. Today laws have expanded the crime to include other types of sexual misconduct. The crime of statutory rape applies to situations in which the victim is underage. The consent of the underage person does not make the sexual encounter legal. Furthermore, a minor can also be prosecuted for having sex with another minor. Statutes defining rape do not specify the age of the offender.

Sexual assault by a friend or date has been recently recognized as a sex offense. Such crimes are usually labeled date rape or acquaintance rape.

Sexual assault is a very serious crime. Victims are hurt not only physically but also emotionally and psychologically. For these reasons, sex offenses carry very serious penalties. In one state, for example, the rape of a child under the age of 13 carries the penalty of life in prison.

Domestic Violence

Many children, spouses, and elderly people suffer harm from members of their own families. Any reckless form of physical or mental abuse within a family or household is known as domestic violence. Children are protected by child endangering or child abuse statutes, which prohibit neglect, ill treatment, and abuse. These laws provide for the relocation of mistreated children from abusive homes to places where they will be treated properly. The laws also provide for punishment of the abusers.

The law also protects a married individual from being abused by his or her spouse. Many communities have shelters where abused and battered spouses can seek safety. Abused spouses may also seek legal protection from the courts. They may request a protective order, which bars the abusing spouse from maintaining any contact with the victim. Such orders are enforced by the local police.

Hate Crimes

Many states have tried in recent years to make it a crime to use certain symbols, writings, pictures, or spoken words to cause fear or anger in people because of their race, religion, color, or gender. Such actions are sometimes referred to as *hate crimes* and *hate speech*.

The courts have held that hate crime statutes must be drafted very narrowly, which means the statutes must not specify the content of the

hate speech. A legislature can pass a statute that outlaws language or symbols that are designed to rouse fear or outrage regardless of the content of that speech. However, a statute making it illegal to use speech designed to incite outrage or fear based only on race, religion, color, gender, or any similar category would not be correct.

Crimes Against Property

The most common crimes against property include burglary, robbery, arson, larceny, and embezzlement. Crimes against property can be classified as felonies or misdemeanors, depending on the severity of the crimes. See Figure 3.3 and Figure 3.4 for statistical data on violent crime in the United States.

VIOLENT CRIME RATES BY AGE OF VICTIM

The crimes represented by the statistics in this table include murder, sexual offenses, robbery, and assault. *Which age groups of victims have the highest crime rates for the two most recent years in the table?*

Figure 3.3

Violent Crime Rates by Age of Victim

Year	Age of Victim (Adjusted victimization rate in percent per 1,000 persons age 12 and over)						
	12–15	16–19	20–24	25–34	35–49	50–64	65 +
1979	78.5	93.4	98.4	66.3	38.2	13.6	6.2
1980	72.5	91.3	94.1	60.0	37.4	15.6	7.2
1981	86.0	90.7	93.7	65.8	41.6	17.3	8.3
1982	75.6	94.4	93.8	69.6	38.6	13.8	6.1
1983	75.4	86.3	82.0	62.2	36.5	11.9	5.9
1984	78.2	90.0	87.5	56.6	37.9	13.2	5.2
1985	79.6	89.4	82.0	56.5	35.6	13.0	4.8
1986	77.1	80.8	80.1	52.0	36.0	10.8	4.8
1987	87.2	92.4	85.5	51.9	34.7	11.4	5.2
1988	83.7	95.9	80.2	53.2	39.1	13.4	4.4
1989	92.5	98.2	78.8	52.8	37.3	10.5	4.2
1990	101.1	99.1	86.1	55.2	34.4	9.9	3.7
1991	94.5	122.6	103.6	54.3	37.2	12.5	4.0
1992	111.0	103.7	95.2	56.8	38.1	13.2	5.2
1993	115.5	114.2	91.6	56.9	42.5	15.2	5.9
1994	118.6	123.9	100.4	59.1	41.3	17.6	4.6
1995	113.1	106.6	85.8	58.5	35.7	12.9	6.4
1996	95.0	102.8	74.5	51.2	32.9	15.7	4.9
1997	87.9	96.3	68.0	47.0	32.3	14.6	4.4
1998	82.5	91.3	67.5	41.6	29.9	15.4	2.8
1999	74.4	77.5	68.7	36.4	25.3	14.4	3.8
2000	60.1	64.4	49.5	34.9	21.9	13.7	3.7
2001	55.1	55.9	44.9	29.4	23.0	9.5	3.2
2002	44.4	58.3	47.6	26.4	18.2	10.7	3.4

SOURCE: Rape, robbery, and assault data are from the *National Crime Victimization Survey (NCVS)*. The homicide data are collected by the *FBI's Uniform Crime Reports (UCR)* from reports from law enforcement agencies.



Figure 3.4**Violent Crime Rates by Race of Victim**

Year	White	Black
1979	19.6	33.2
1980	18.7	34.0
1981	19.7	40.4
1982	19.0	36.9
1983	16.3	33.1
1984	17.1	32.7
1985	15.6	28.9
1986	15.6	25.2
1987	15.0	33.8
1988	16.0	31.4
1989	16.1	29.5
1990	15.4	31.8
1991	16.2	31.3
1992	16.9	33.0
1993	17.8	34.3
1994	17.1	33.5
1995	13.5	26.4
1996	13.3	26.3
1997	12.9	20.7
1998	11.6	19.2
1999	10.2	19.5
2000	8.7	16.2
2001	8.4	12.7
2002	6.6	13.0

NOTE:
 Serious violent crime victimization rates by race.
 Rates per 1,000 persons age 12 +.
 Serious violent crime includes homicide, rape, robbery, and aggravated assault.

SOURCE: Rape, robbery, and assault data are from the *National Crime Victimization Survey (NCVS)*. The homicide data are collected by the *FBI's Uniform Crime Reports (UCR)* from reports from law enforcement agencies.

VIOLENT CRIME RATES BY RACE OF VICTIM

The crimes represented by the statistics in this table include murder, sexual offenses, robbery, and assault. *What trend is evident over time in the data on crime victimization by racial group?*

Burglary

Common law defines **burglary** as the breaking and entering of a dwelling house at night with the intent to commit a felony. Today, state laws have expanded the definition of the crime to include breaking and entering in the daytime, breaking and entering places other than homes, and breaking and entering with the intent to commit a misdemeanor. If any part of the definition of burglary cannot be proven, the defendant cannot be found guilty.





A Global Perspective: Laws Around the World

Native American Groups

The people we have come to know as American Indians or Native Americans came to the North American continent from Northeast Asia by way of the Bering Strait. Most historians and scientists agree these people began their migration before 30,000 BC and were the Americas first inhabitants. Yet it took less than 200 years for European settlers to decimate these natives. In time, however, organizations like the American Indian Movement (AIM) pressured the federal government to take action. Finally, a series of laws were passed in the 1970s to promote the welfare of the Native Americans. These acts encourage tribes to set up and govern their own communities, health care, housing, law enforcement, and schools. They also provide funding for teachers, counselors, and educational materials, like computers.

Native Americans still face many hardships, but one statistic in particular may reflect a hopeful future. The 1890 U.S. census recorded just over 200,000 Native Americans. The 1990 census shows a Native American population of close to two million. Many experts believe these to be the highest figures since European colonization.



Critical Thinking Question Although Native Americans no longer have to live on reservations, about one-third of the population still does. What would be some of the advantages of staying on a reservation? What would be some of the disadvantages? For more information on Native American Groups, visit ubpl.glencoe.com or your local library.

Example 5. Todd was jogging after dark and noticed a house with a partly opened window. He raised the window farther, climbed inside, and stole expensive shoes. A neighbor saw Todd leaving and called the police, who arrested him nearby and charged him with burglary. Applying the common law definition, a court could not find Todd guilty because there was no breaking—the window of entry was open. However, most state statutes now say that a breaking has occurred even when someone raises a partially opened window.

Larceny

The unlawful taking and carrying away of the personal property of another with the intent to deprive the owner of the property is called **larceny**, the legal term for stealing. In many states, larceny is classified as petty or grand, depending on the value of the property taken. Petty larceny is a misdemeanor; grand larceny is a felony. In some states, stealing property with a value of \$300 or less is a misdemeanor; stealing property valued at more than \$300 is a felony. Shoplifting is a form of larceny.

Embezzlement

The crime of **embezzlement** is the wrongful taking of another's property by a person who has been entrusted with that property.

Example 6. Virginia Waddell worked as a supermarket cashier to help pay for college. A customer bought groceries and paid with cash. Virginia put the money directly into her pocket instead of the cash register. This act was embezzlement because Virginia was entrusted with the money before she stole it.

Robbery

The wrongful taking and carrying away of the personal property of another through violence or threats is the crime of **robbery**. Robbery involves taking “from the person”; that is, from the body or close to the body of the victim, by using force, violence, or threats. Naturally, the penalty for robbery is greater than the penalty for larceny.

Example 7. Suppose, in Example 6, that someone came into the store, pointed a gun at Virginia, and demanded money from the register. This act would be armed robbery because the robber used a weapon to forcefully take the money from Virginia's personal custody.

Arson

Under common law, **arson** was defined as the willful and malicious burning of the dwelling house of another. Most states have added arson statutes to cover the burning of buildings other than dwelling houses. The scorching or blackening of a part of a building is not enough to be considered arson. Some portion of the building must actually have been on fire so that the wood or other building material is charred.

Vandalism

Vandalism is a serious problem in many communities today. The crime of **vandalism** involves willful or malicious damage to property

and may also be called malicious mischief or criminal damaging. To be guilty of vandalism, a person does not have to be the one who actually does the damage; anyone who supports the crime of vandalism by acting as a “lookout” can also be charged.

Shoplifting

The act of stealing goods from a store, called **shoplifting**, is a form of theft that costs American consumers billions of dollars each year. Shoplifting losses and the cost of extra security increase retail prices considerably. The severity of a shoplifting charge depends on the value of the goods stolen. In some cases, a person can be charged with stealing before the act is completed. Many states have laws that regard the concealment on one’s person of an article of merchandise to be persuasive evidence of the intent to steal.



PRIMA FACIE EVIDENCE

Shoplifting has become one of the most widespread crimes in America today. *Why would the law permit the mere concealment of merchandise on your person to be prima facie evidence of shoplifting?*

Science

Do you like solving problems? Do you find science fascinating? If so, forensic science might be a career possibility for you. Forensic scientists use highly technical skills and procedures to uncover evidence from a crime scene. They can find clues in blood, hair, and skin that often lead to the arrest and conviction of criminals.

Research Activity

Investigate forensic science. Research its history and the tools and equipment used by forensic scientists. Then find out what education is needed to become a forensic scientist. *Is forensic science for you?*



DRAG RACING AND LIABILITY

Many states have statutes that specifically outlaw drag racing. *Who would be criminally liable if these students decided to engage in an illegal drag race?*

Motor Vehicle Violations

A license to drive a motor vehicle is a privilege and may be suspended temporarily or permanently if abused. Young drivers who break traffic laws are not offered special protection as juveniles in most states. They may be tried in traffic court and can be fined or have their licenses suspended or revoked.

Many states have statutes that specifically outlaw drag racing and joyriding. Drag racing generally includes the unauthorized racing of two vehicles side by side and the timing of vehicles that separately run a prearranged course. Joyriding occurs when someone temporarily takes a motor vehicle without the owner's permission. It is important to remember that in both drag racing and joyriding, all those who participate can be held liable, not just the driver(s).

Crimes Involving Controlled Substances

Another serious problem facing society today is drug abuse. Alcohol and tobacco may be considered drugs because they are not legal for teenagers or children.

Alcohol

Alcohol is the major chemical found in beer, wine, whiskey, and other distilled beverages. It is the most commonly used drug in the United States. A merchant or bartender convicted of selling an alcoholic beverage to someone under the legal drinking age may be imprisoned, fined, or both, and may lose the license that is required to sell such beverages. The underage individual also may be prosecuted for making the illegal purchase, for lying about his or her age, or for both.

Drugs

Drugs are chemicals that alter the functions of the mind or body. Possession, distribution, or sale of certain drugs may violate a federal

Virtual Law

Investigating Cyber Crime

The federal Computer Fraud and Abuse Act makes it a felony for anyone to “knowingly cause the transmission of a program, information, code or command, and as a result of such conduct, intentionally cause damage without authorization to a protected computer.” A protected computer is one used in interstate commerce or communication.

John Michael Sullivan was convicted under this law. In retaliation for receiving a poor performance review, Sullivan inserted a “code bomb,” including a date trigger for noon on September 23, 1998, to cause his company’s computers to become inoperative. The company’s operations were disrupted for several days, and its direct loss as a result of Sullivan’s conduct was more than \$100,000. (Source: U. S. Department of Justice, www.cybercrime.gov)

Connect Visit the U.S. Department of Justice Web site at www.usdoj.gov. Research what efforts are being taken in the criminal division toward investigating Internet crime. (Source: U.S. Department of Justice, www.cybercrime.gov)



COMPUTER CRIME

Both the state and the federal governments have used innovative tactics to deal with the increased incidence of computer crime. *What are some examples of tactics used by the states and the federal government?*

law, a state law, or both. Each state sets its own penalties in relation to drug offenses. The sale of drugs is always considered a more serious crime than the mere possession or use of drugs. It is also a crime to give drugs away.

Computer Crimes

Although computers and network devices have helped make our lives easier, they have also introduced new ways to commit crimes. Both state and federal government statutes address this new legal problem in a variety of ways.

Federal Crimes and Laws

The federal government has extended the interpretation of many criminal statutes already on the books so that these statutes will also apply to computers. For instance, statutes prohibiting mail fraud and

wire fraud have been used to apprehend computer criminals. However, these attempts were not always successful, so the federal government has now passed statutes that are directly related to computer crime. These statutes include the Computer Fraud and Abuse Act and the National Information Infrastructure Act of 1996.

The Computer Fraud and Abuse Act is specifically aimed at computer hackers. Hackers gain unauthorized entry to a computer system, generally to do some sort of mischief. The National Information Infrastructure Act is designed to outlaw the practice of extorting money or other favors in exchange for not causing a computer system to crash.

State Crimes and Computers

Some states have created the crime of computer trespass, which simply outlaws using a computer to commit any crime. Other states have passed computer fraud statutes, which make it an offense to use a computer to acquire property, services, or money by fraud. Some states have a detailed list of computer-related crimes, including theft of computer services, destruction of equipment, and misuse of computer information.

Section 3.2 Assessment

Reviewing What You Learned

1. What are the major crimes committed against people?
2. What are the major crimes committed against property?
3. What are the major crimes that involve controlled substances?
4. Identify federal legislation pertaining to computer crime, fraud, and abuse.

Critical Thinking Activity

Computer Crime Using the Internet, library, or other resource, identify state legislation pertaining to computer crime, fraud, and abuse. List and describe some of the laws in your state, and then compare them with the

laws of another state. How are they the same? How are they different?

Legal Skills in Action

Hate Speech Many states have made it a crime to use certain symbols, writings, pictures, or spoken words to cause fear or anger in people because of their race, religion, color, or gender. The courts have held that hate crime or hate speech statutes must be drafted very narrowly. Imagine that you are a television newscaster for a cable news network. Write an opinion piece in which you argue that the courts are wrong in their rulings regarding hate speech.

Chapter Summary

Section 3.1 What Is a Crime?

- Crime is considered an act against the public good. Crimes can be classified as felonies or misdemeanors. A felony is a major crime punishable by imprisonment or death. Murder, manslaughter, burglary, robbery, and arson are examples of felonies. A less serious crime is called a misdemeanor. Driving an automobile without a license, lying about one's age to purchase alcohol, and leaving the scene of an automobile accident are examples of misdemeanors. To determine felonies from misdemeanors, one can examine the severity of punishment for any given crime.
- Each state government has inherent police power, and enacting criminal statutes is a part of this power. In contrast, the federal government was created with no general police power. The federal government is able to create criminal statutes only in areas over which it has jurisdiction. However, the federal government has interpreted its power under the commerce clause rather expansively to legislate a body of criminal law. The commerce clause requires Congress to regulate commerce among the states.
- A crime is defined by two elements: the criminal act and the required state of mind. A criminal act must involve voluntary conduct. A person cannot be accused of a crime if that accusation is based on the one's physical or mental state.
- Criminal defendants can argue the following defenses: insanity, entrapment, self-defense, and defense of family members. In many states, a person is considered legally insane if "as a result of mental disease or defect he or she lacks substantial capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law." A person can use the defense of entrapment if a law enforcement officer induces him or her to commit a crime.

The defense of self-defense can be used if a person uses force to protect himself or herself from attack. Similarly, most states will not punish people who can prove that they used force to rescue a family member from attack.

Section 3.2 Particular Crimes

- Crimes against people include murder, manslaughter, assault, battery, kidnapping, sex offenses, domestic violence, and hate crimes. Murder is the unlawful killing of another human being with malice aforethought. Manslaughter is the unlawful killing of another person without malice aforethought. Battery is the unlawful touching of another person, and assault is an attempt to commit battery. The unlawful removal or restraint of a person against his or her will is called kidnapping. Sex offenses include various forms of rape. Reckless physical or mental abuse within a family constitutes domestic violence. Hate crimes occur when a perpetrator uses specific symbols, writings, or speech to cause fear or anger in people because of their race, religion, color, or gender.
- Crimes against property include burglary, larceny, embezzlement, robbery, arson, vandalism, and shoplifting.
- Selling an alcoholic beverage to an underage person is a crime. It is also a crime for the underage individual to purchase alcohol or even to lie about his or her age to attempt to purchase it. The sale, possession, or free distribution of drugs is considered a criminal offense.
- States have enacted different laws to deal with computer crimes. Some states have created the crime of computer trespass; others have passed computer fraud statutes. Some states have legislated a list of computer-related crimes, including theft of computer services, destruction of equipment, and misuse of computer information.

Using Legal Language

Consider the key terms in the list below. Then use these terms to complete the following exercises.

crime

prosecutor

defendant

felony

misdemeanor

murder

assault

kidnapping

burglary

robbery

1. Imagine that you are a rookie police officer. You are assigned to work with a veteran who is helping you understand the criminal justice system. Create a script of a conversation with your partner. Use the key terms in the script.
2. Carry out the conversation in front of the class, using gestures, voice inflections, and props to emphasize your key points.
3. Discuss with your partner ways in which you could have improved your conversation.
4. As a class, vote to select the best presentation. If possible, winners should arrange to videotape their presentation.

The Law Review

Answer the following questions. Refer to the chapter for additional reinforcement.

5. Who is always the plaintiff in a criminal case? Who is the prosecutor? Who is the defendant?
6. What is the one crime named and defined in the U.S. Constitution?
7. Explain the difference among first-degree murder, second-degree murder, and manslaughter.
8. Why does the crime of rape carry very serious penalties?
9. Why is the penalty for robbery greater than the penalty for larceny?
10. What is double jeopardy?
11. What is embezzlement?
12. How does burglary differ from robbery?
13. What are some examples of motor vehicle violations?

Understanding Business and Personal Law

Online 

Self-Check Quiz Visit the *Understanding Business and Personal Law* Web site at ubpl.glencoe.com and click on Chapter 3: Criminal Law—Self-Check Quizzes to prepare for the chapter exam.

Linking School to Work

Acquiring and Evaluating Information

Dalia dated Alfonso, a coworker, a few times and decided that he was not for her. Alfonso, however, had other ideas. He began to send Dalia flowers regularly and followed her home from work most days. On the weekends, Alfonso would show up at the restaurants where Dalia was eating. Dalia became frightened, and on several occasions, she asked Alfonso to stop following her because she believed she was being stalked. Today, all U.S. states have an anti-stalking law.

14. Find out when your state enacted an anti-stalking law and the circumstances surrounding why it became law.
15. Research if there are federal laws against stalking. Write a 250-word paper about your findings.

Let's Debate

Vigilante Justice

Ennis Gonzales works as a computer programmer for a large corporation. He is considered an expert in his field. Recently, he embarked on a campaign against child pornography. Ennis has been able to hack into Web sites that feature child pornography and disable them. So far, he has destroyed about 50 sites.

Debate

16. Is destroying someone else's Web site illegal?
17. Do you think a court of law would find Ennis guilty if he were arrested?
18. What is your opinion of Ennis's actions?

Grasping Case Issues

For the following cases, give your decision and state a legal principle that applies.

19. Several years ago, four Los Angeles police officers were tried in the state court of California for assaulting Rodney King while attempting to arrest him after a lengthy car chase. The jury found the defendants not guilty. Despite this state court decision, the defendants were put on trial again in federal court. Did the second trial violate the Fifth Amendment prohibition against double jeopardy? Why or why not?
20. Julius Davidson is arrested for shoplifting. He asks his attorney to plead not guilty by reason of insanity. Davidson believes that he will be free if he is found not guilty by reason of insanity. Is he correct? Why or why not?
21. Shane and Kira were riding through town one Saturday evening when two classmates challenged them to a drag race. Shane, who was driving, agreed. When they were picked up by the police, Kira believed she would not be criminally liable because she was just a passenger. Is she correct? Why or why not?
22. Pyrrah is part of a group of students who decide to break into the high school and spray paint the hallways. Pyrrah agrees to act as lookout, believing that she will not be criminally liable if they are picked up by the police. Is she correct? Why or why not?
23. Ben Feeney runs a pawn shop. He often accepts stolen merchandise, sells it, and splits the profits with the thief. Lt. Jose Urena sends several undercover police officers to the shop, and they catch Ben in the act of fencing stolen goods. At trial, Ben's attorney tries to use the defense of entrapment. Will this defense work? Why or why not?

Analyzing Real Cases

In each case that follows, you be the judge.

24. Property Crimes

Reese entered a fast food restaurant through a rear door, having arranged for an accomplice who worked there to leave the door unlocked. Reese pushed one employee against a soda machine, and while holding a gun on the manager, forced the manager to open the safe. Reese then locked the employees in a cooler and left with more than \$5,000. *Has Reese committed burglary, robbery, or larceny? Explain your answer.*

State v. Reese, 113 Ohio App. 3d. 642 (OH).

25. Hate Crimes

Several teenagers burned a cross on the lawn of a black family in their neighborhood. One of the youths, a minor, was charged under a city ordinance that stated it was a crime to place on private property “any symbol, object, appellation, characterization or graffiti . . . which one knows or has reasonable grounds to know arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion, or gender.” The defendant argued that the ordinance was unconstitutional. *Was it? Why or why not?*

R.A.V. v. St. Paul, 505 U.S. 1992 (U.S. Sup. Ct.).

Legal Link

Teen Criminals

Although most teenagers do not commit crimes, some do. Perhaps with additional education, at-risk teenagers would think twice about committing crimes. Create a pamphlet that highlights those crimes that are most often committed by teenagers in your state. Share the pamphlet with other members of your class.

Connect

Use a variety of search engines to complete the following exercises.

26. Locate information about crimes committed by teens.
27. Find statistics that show the numbers of teens who commit crimes.
28. Determine the usual punishments imposed.
29. Discuss the impact on the teenager’s record now and when he or she is an adult.



30. **Predict** Most people are honest and hard working. Are all the laws we have in this country really necessary?
31. **Connect** Do you watch any television show about the police, criminal investigations, lawyers, or court cases? Which ones seem most realistic? Explain your answer.
32. **Question** Discuss why driving a car is a privilege, not a right.
33. **Respond** Many of the people in jail are drug addicts who were arrested for possession of controlled substances. Do you believe they should be incarcerated? Can you think of any other options for them?