



Step-by-step outline of the U.S. system for investigating & prosecuting criminal offenses—from arrest to disposition

CRIMES & CRIMINAL OFFENSE

Entry into the criminal justice system typically begins with the commission of a crime or criminal offense.

A. Crime

A criminal offense committed in violation of the criminal laws of a state, the federal government, or a local jurisdiction in which the guilty party may be punished; the word originated from the Latin *crimen*; criminal offenses are often categorized into three broad categories: street crime, white collar crime and victimless crime.

A. Street Crime: A class of offenses, sometimes formally defined as those that occur in public locations, are visible and accessible, and thus constitute a special risk to the public and a special target for law enforcement preventative efforts and prosecutorial attention.

Example - Aggravated Assault

1. **Aggravated Assault:** Unlawful, intentional causing of serious bodily injury, with or without use of a deadly weapon.

B. White Collar Crime: Crimes that are often nonviolent, yet committed for financial gain by means of deception by persons whose occupational status is entrepreneurial, professional or semiprofessional, and who use their special occupational skills and opportunities.

Example - Embezzlement

1. **Embezzlement:** The misappropriation, misapplication or illegal disposal of legally obtained property by the person(s) to whom it was entrusted, with the intent to deprive the legal owner or intended beneficiary.

C. Victimless Crime: Illegal acts that are often perceived to cause no specific harm, especially since it is often regarded by the informed and legal consent of the participants of the crime; the harm may take several forms:

1. Harm to the person
2. Harm to the property
3. Psychological harm
4. Social harm
5. Harm to an individual's freedom

Example - Prostitution

a. **Prostitution:** Offering or agreeing to engage in, or engaging in, a sex act with another in return for a fee.

D. Additional Crime Categories: Include terrorism, sex offenses and cybercrime.

1. **Terrorism:** The calculated use of violence to obtain political goals through instilling public fear, intimidation or coercion.

Example - September 11, 2001

2. **Sex Offenses:** Any of a broad category of varying offenses having a sexual element, except for forcible rape.

Example - Indecent Exposure

3. **Cybercrime:** (also referred to as computer crimes) Any crime perpetrated through the use of computer technology or the Internet.

Example - Cyberstalking

B. Criminal Offense

A term defined by statute describing any offense, misdemeanor or felony, for which punishment by imprisonment

or fine may be imposed under the law of a state, federal government, or a local jurisdiction; most crimes are divided into felonies and misdemeanors.

A. Statute: A law enacted by, or with the authority of, a legislature.

B. Law: A body of rules—including constitutions, the common law, equity, statutes, judicial decisions, administrative orders, and ordinances—together with the principle of justice commonly applied in their enforcement.

C. Misdemeanor: An offense punishable by incarceration, usually in a local confinement facility, for a period of which the upper limit, typically a year or less, is prescribed by statute in a given jurisdiction.

Example - Simple Assault

1. **Simple Assault:** Unlawful threatening, attempted inflicting, or inflicting of less than serious bodily injury in the absence of a deadly weapon—i.e., push, shove, kick or slap.

D. Felony: A criminal offense punishable by death or by incarceration in a prison facility for at least one year.

Example - Murder in the First Degree

1. **Murder in the First Degree:** Intentionally causing the death of another without legal justification or excuse, and/or causing the death of another while attempting to commit another crime.

E. Degree: In criminal law, the term refers to the ranking of crimes by seriousness with the classification of first degree being the most serious.

CRIMINAL LAW

A. Criminal Law (also referred to as Penal Law)

A operational branch of the law dealing with a body of rules and regulations that specify the nature of and punishment for a criminal offense; the criminal law aspect of the criminal justice system is divided into two subcategories: Substantive Criminal Law and Procedural Law.

A. Substantive Criminal Law: The part of the law that defines crimes and specifies punishments.

B. Procedural Law: The part of the law that prescribes in detail the methods or procedures to be used in determining and enforcing the rights of the accused.

1. Crimes are often reported to the police after a victim or witness observes that a crime has taken place.
2. There are also instances in which law enforcement may apprehend a suspect while in the commission or attempted commission of a crime.

C. Elements of a Crime

1. **Actus Reus:** The requirement that, for an act to be considered criminal, the individual must have committed an overt act that resulted in harm.
2. **Mala Prohibita:** Acts that are considered wrong only because there is a law against them.
Example - Speeding
3. **Mala Se Aut:** Acts that are regarded, by tradition and convention, as wrong in themselves.
Example - Rape
 - a. **Treason:** A citizen's actions to help a foreign government overthrow, make war against, or seriously injure the country in question.
4. **Mens Rea:** The state of mind (intent) that accompanies the particular act (actus reus) defined as criminal, also referred to as the criminal or evil mind.

D. Criminal Law Violations

1. **Crimes Against Property:** Any criminal offense against property.

Example - Criminal Mischief

a. **Criminal Mischief:** Intentionally destroying or damaging, or attempting to destroy or damage, the property of another without his/her consent.

2. **Crimes Against the Person:** Any offense that attempts, threatens, or uses physical force against a person.

Example - Robbery

3. **Public Order Offenses:** Violations of the peace or order of the community, or threats to the public health, through unacceptable public conduct, interference with governmental authority, or violation of civil rights or liberties.

Example - Sex Offense

a. **Sex Offense:** Illegally involving paying terms, selling to export, or reporting inaccurately.

B. Criminal Justice

As defined by the Federal Crime Control Act of 1973, criminal justice is any activity pertaining to:

- A. Crime prevention, control or reduction, or the enforcement of the criminal law.
- B. Police efforts to prevent, control or reduce crime, or to apprehend offenders.
- C. Activities of the courts having criminal jurisdiction and related agencies, including the prosecutorial and defense services.
- D. Activities of corrections, probation or parole authorities.
- E. Programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

C. Jurisprudence

The principles of law applied to the facts of a case.

D. Crime Prevention

The anticipation, investigation and appraisal of a crime risk, and the initiation of action to eliminate or reduce it.
Example - Anti-Drug Use Campaign

CRIMINAL INVESTIGATION

A. Criminal Investigation

The process of discovering, collecting, preparing, identifying and preserving evidence found at a crime scene to determine what happened and who is responsible when a crime has occurred.

A. Crime Scene: The physical area in which a crime is thought to have occurred and in which evidence of the crime is thought to reside.

B. Evidence: Anything helpful and practical to aid a judge or jury in deciding the facts of a case; evidence may take the form of witness testimony, DNA, written documents, videotapes, magnetic media, photographs, physical objects, and so forth.

1. **Plain View Doctrine:** A legal term describing the ready visibility of objects that might be seized as evidence during a search by police in the absence of a search warrant.

a. **Search Warrant:** A document that is issued by a judicial officer to direct a law enforcement officer to conduct a search of a specific location, for specified property or person relating to a crime, to seize the property or person if found, and to account for the results of the search to the issuing judicial officer.

b. **Exclusionary Rule:** A court-governed rule holding that evidence obtained in violation of the protections granted by the U.S. Constitution becomes tainted and, thus, inadmissible at trial.

c. **Copies Debits:** The facts that show that a crime has occurred; the term "what transpired around 'the body of the crime'."

d. **Victim:** Any person having suffered death, physical or mental injury, and/or loss of property or property rights as a result of the criminal activity or attempted criminal activity of another.

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James A. Inciardi



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