Chapter 7
Crime

Stacey: Victim or Perpetrator?
✓ Chapter opener case

Chapter Opener Case

Fraud: The deception of another person for the purpose of obtaining money or property from him.

Medicare fraud: Using false statements, bribes, or kickbacks to obtain Medicare payments from the federal or state government.
White-collar Crime

✓ A variety of non-violent crimes committed by working professionals for financial gain. Usually involve fraud and theft.
✓ Examples: Medicare fraud, Securities fraud, and Insider trading.

Street Crime

✓ Criminal offenses taking place in public places.
✓ Examples: Pickpocketing, purse snatching, mugging, drug trafficking, and prostitution.

Which Cost Society More?

✓ White collar crime costs more than $300 billion annually (U.S. only)
✓ Street crimes cost an estimated $3.8 billion annually (U.S. only)
Jury Right
✓ A criminal defendant has a right to a trial by jury for any charge that could result in a sentence of six months or longer.

Verdict
✓ Government always seeks a guilty verdict. 
✓ If the jury is not persuaded of the defendant’s guilt, it will acquit him, which means handing down a verdict of not guilty.

Punishment
✓ If a fine is levied, it will be paid to the government, not to the injured person. 
✓ Sometimes a court will order the defendant to pay restitution to the victim. 
✓ Confinement in a county jail or imprisonment in a prison or penitentiary are other possible punishments.
Felony vs. Misdemeanor

**Felony:** A serious crime, for which a defendant can be sentenced to one year or more in prison.

**Misdemeanor:** A less serious crime, often punishable by a year or less in county jail.

Rationales for Criminal Punishments

 ✓ Restraint
 ✓ Deterrence
 ✓ Retribution
 ✓ Rehabilitation

Which of the four rationales for criminal punishment makes no specific claim that it will reduce the amount of crime the sentenced individual will commit in the future?
Burden of Proof
Generally, the prosecution must prove beyond a reasonable doubt that:
1. A prohibited act (actus reus) was intentionally (with mens rea) performed, and
2. The defendant is the one who performed it.

Five Types of Mens Rea Requirements
1. General intent
2. Specific intent
3. Criminal recklessness
4. Criminal negligence
5. Strict liability (meaning no mens rea requirement)

Criminal Defenses
✓ Insanity
✓ Entrapment
Insanity Defense
The M’Naghten Rule:
1. The defendant was suffering from a serious, identifiable mental disease.
2. This disease left them either
   a. Unable to understand the nature of their act, or
   b. Unable to recognize the act as wrong.

Bieber v. People
✓ Show of hands
✓ The decision
✓ Discussion

Entrapment Defense
✓ What is entrapment?
✓ Can a defendant always obtain an acquittal if they can prove the government provided inducement for them to break the law?
✓ What must the prosecution prove if the government provided inducement?
Crimes That Harm Businesses
- Larceny
- Embezzlement
- Arson
- Fraud
- Computer Crime

Fraud
- Bank fraud
- Wire fraud and Mail fraud
- Insurance fraud
- Medicare fraud
- Securities fraud

Computer Crime
- The Computer Fraud and Abuse Act
- The Access Device Fraud Act
- The Identity Theft and Assumption Deterrence Act
- The Wire and Electronic Communications Interception Act
How Can a Corporation Have “Criminal Intent”?

✓ One of its agents
✓ Acting within the scope of his or her employment
✓ Commits a crime
✓ With the intent to benefit the corporation

Commonwealth v. Angelo Todesca Corp.

Massachusetts Supreme Court (2006)

✓ Was the trial court correct in finding the Todesca Corporation guilty of motor vehicle homicide?
✓ Defense argued the trial court had made an error of law because a corporation can’t operate a motor vehicle.

Answer: Yes. Gauthier’s supervisors instructed Gauthier to continue to drive the truck without the alarm.
✓ The corporation is guilty of motor vehicle homicide.
Compliance Programs

- If a company has a valid, functioning plan to prevent and detect criminal behavior, the judge must (according to the Federal Sentencing Guidelines) reduce the penalty of the crime.

People v. O’Neill

- Illinois Court of Appeals (1990)
- Film Recovery Systems was in the business of recovering the silver from used X-ray film.
- This required soaking the film in bubbling vats of sodium cyanide solution.

RICO

Prohibits using two or more racketeering acts to accomplish any of three goals:
1. Investing in or acquiring legitimate businesses with criminal money,
2. Maintaining or acquiring businesses through criminal activity, or
3. Operating businesses through criminal activity.
Money Laundering
Taking the proceeds of certain criminal acts and either:
1. Using the money to promote crime, or
2. Attempting to conceal the source of the money.

Criminal Procedure

The Fourth Amendment
✓ If the police conduct a search without a warrant when one was needed, all evidence they obtain comes under the exclusionary rule.
✓ The defendant must file a motion to suppress to get the judge to declare the evidence inadmissible.
Warrantless Searches
- Plain view (parked car, home)
- Stop and frisk
- Emergencies (a.k.a. “hot pursuit”)
- Lawfully stopped car
- Lawful arrest
- Consent

Defective Warrants and Searches That Exceed the Scope
- Not issued by a neutral party
- No probable cause to issue the warrant
- The warrant does not specify the place to be searched and the things sought
- The search extends beyond what is specified in the warrant.

Double Jeopardy
- Which Amendment protects against double jeopardy?
- O.J. Simpson was acquitted of criminal charges, then sued by the families of the victims. Doesn’t that violate double jeopardy?
Self Incrimination

- Applies to individuals only, not corporations
- Applies to your oral testimony, as well as your right to refuse to help them find any specific written documents they aren’t able to find on their own.

Miranda Rights

- Apply to custodial interrogations only
  1. Right to remain silent
  2. Anything you say can be used against you.
  3. Right to have a lawyer present
  4. If you cannot afford one, we will provide one to you.

Sixth Amendment

Right to have a lawyer present at all important stages of the criminal process:
- During a custodial interrogation.
- At the initial appearance
- At the preliminary hearing, etc.
Eighth Amendment

✓ Forbids excessive bail, excessive fines, and cruel and unusual punishment
✓ Is California’s three strikes law unconstitutional? (Read Ewing v. California)

Eighth Amendment

✓ Are forfeitures “excessive fines” under the Eighth Amendment?
✓ Answer: It depends. Some are and some are not.

Roger, a truck driver, sold some sides of beef out of a refrigerated truck that he had been hired to drive from San Diego to Dallas and pocketed (kept) the money. When the truck arrived in Dallas, he claimed to know nothing about the missing sides of beef. Roger did not need to force the lock on the door to the truck, because the key to the ignition also opened the back of the truck. What crime has Roger committed?

a. larceny
b. burglary
c. embezzlement
d. swindle