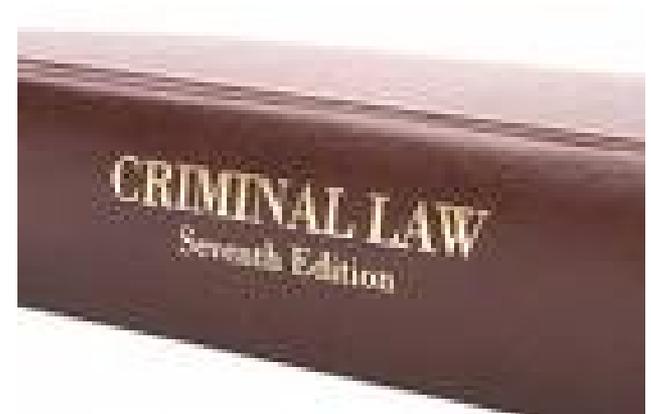


An Introduction to Criminal Law

Criminal law serves to define offenses under a codified system of laws and punishments. It is where a crime is defined and how it is going to be prosecuted.



CRIME

- A violation of a law in which there is injury to the public or a member of the public and a term in jail or prison, and/or a fine as possible penalties.
- A crime shall mean a felony or misdemeanor.

HOMICIDE

- The act of killing another human being
- Homicide is not always an illegal act



Murder

FIRST DEGREE MURDER

- In most states, first-degree murder is defined as an unlawful killing that is both willful and premeditated, meaning that it was committed after planning or "lying in wait" for the victim
- **Sentence: Mandatory LIFE in prison without parole**
- For example, Dan comes home to find his wife in bed with Richard. Three days later, Dan waits behind a tree near Richard's front door. When Richard comes out of the house, Dan shoots and kills him.

Murder

FELONY MURDER RULE

- *Most states* also adhere to a legal concept known as the "felony murder rule," under which a person commits first-degree murder if any death (even an accidental one) results from the commission of certain violent felonies -- usually arson, burglary, kidnapping, rape, and robbery.
- For example, Danny and Chelsea rob JOE's liquor store, but as they are fleeing, Chelsea shoots and kills Danny. Under the felony murder rule, Chelsea can be charged with felony murder for Danny's death.

Felony Murder

For example, three people conspired to commit armed robbery. Two of them went in to the house and committed the robbery, and in the process killed the occupants of the house. **The third person sat outside in the getaway car, and he was later convicted of felony murder.** But because he himself neither killed, attempted to kill, or intended to kill, he cannot be executed even though **he is guilty** of felony murder.

Florida State Statutes

CHAPTER 782

HOMICIDE

- 782.02 Justifiable use of deadly force.
- 782.03 Excusable homicide.
- 782.035 Abrogation of common-law rule of evidence known as "year-and-a-day rule".
- 782.04 Murder.
- 782.051 Attempted felony murder.
- 782.07 Manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- 782.071 Vehicular homicide.
- 782.072 Vessel homicide.
- 782.08 Assisting self-murder.
- 782.081 Commercial exploitation of self-murder.
- 782.09 Killing of unborn child by injury to mother.
- 782.11 Unnecessary killing to prevent unlawful act.
- 782.30 Short title.
- 782.32 Definitions.
- 782.34 Partial-birth abortion.
- 782.36 Exceptions.

Florida State Statutes
CHAPTER 782
HOMICIDE

Click on the following site to view all of the Laws
in Florida on Homicide and the sentences given
for each offense:

[Florida Homicide Laws](#)

Crimes Punishable by the Death Penalty

DEATH PENALTY crimes vary by state

Here are a few examples:

- ****CAPITAL CRIMES ARE PUNISHABLE BY DEATH**
- **FLORIDA. First-degree murder; felony murder; capital drug trafficking; capital sexual battery.**
- **Georgia.** Murder; kidnapping with bodily injury or ransom when the victim dies; aircraft hijacking; treason.
- **Alabama.** Intentional murder with 18 aggravating factors
- **Louisiana.** First-degree murder; aggravated rape of victim under age 13; treason
- **California.** First-degree murder with special circumstances; train wrecking; treason; perjury causing execution.
- **Washington.** Aggravated first-degree murder.
- **Wyoming.** First-degree murder.

Crimes Punishable by the Death Penalty

DEATH PENALTY crimes vary by state



The death penalty in the United States is used almost exclusively for the **crime of murder**. Although state and federal statutes contain various capital crimes other than those involving the death of the victim, only two people were on death row for a non-murder offense (Patrick Kennedy (2004-rape of his 8-year-old step-daughter) and Richard Davis (2007-rape of a 5-year-old girl) in Louisiana *Louisiana v. Kennedy, No. 05-KA-1981*

Crimes Punishable by the Death Penalty

DEATH PENALTY

executions methods change by state

A. EXECUTION BY LETHAL INJECTION PROCEDURES

- Effective for executions after August 16, 2006 in Florida (inmate can choose injection or electrocution)

Euthanasia- refers to the practice of ending a life in a painless manner.

Drugs used:

1. Sodium thiopental (barbiturate)
2. Pancuronium (muscle relaxant)
3. Potassium chloride (stop heart)



Crimes Punishable by the Death Penalty

DEATH PENALTY executions change by state

A. EXECUTION BY LETHAL INJECTION PROCEDURES

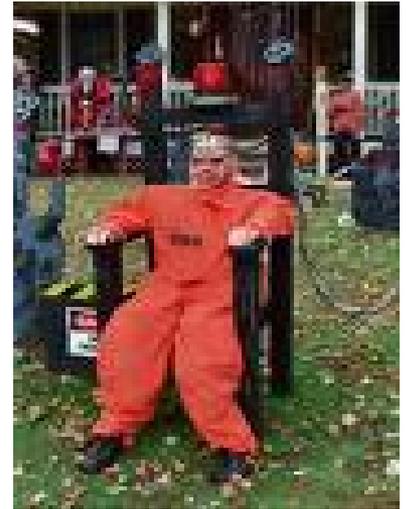
- 35 States and US Military and US Gov't use lethal injection:

Alabama, Arizona, Arkansas, California,
Colorado, Connecticut, Delaware, Florida, Georgia, Idaho,
Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland,
Mississippi, Missouri, Montana, Nevada, New Hampshire,
New Mexico, North Carolina, Ohio, Oklahoma, Oregon,
Pennsylvania, South Carolina, South Dakota, Tennessee,
Texas, Utah, Virginia, Washington, Wyoming, U.S.
Military, U.S. Government

- **980+** lethal injection procedures have been performed since 1976

Crimes Punishable by the Death Penalty

DEATH PENALTY executions change
by state

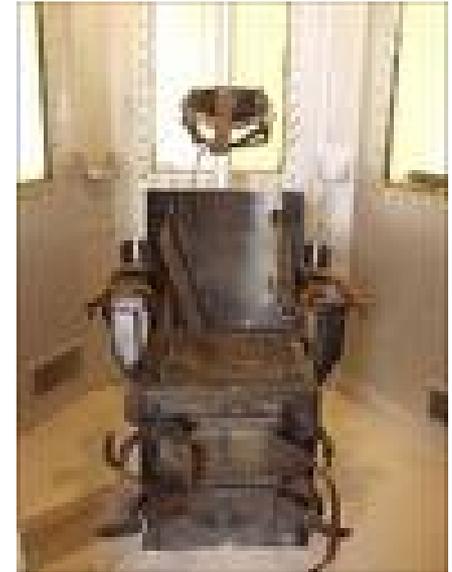


B. ELECTROCUTION PROCEDURES

- 9 States use electrocution:
- Alabama, Arkansas, Florida, [Illinois], Kentucky, [Oklahoma], South Carolina, Tennessee, Virginia
- **155** electrocution procedures have been performed since 1976

Crimes Punishable by the Death Penalty

DEATH PENALTY executions
change by state



C. GAS CHAMBER PROCEDURES

- 5 States still use the gas chamber: All 5 states use lethal injection as an alternative method
- **Arizona, California, Maryland, Missouri, Wyoming**
- **11** gas chamber procedures have been performed since 1976

Crimes Punishable by the Death Penalty

DEATH PENALTY executions change by state



D. HANGING PROCEDURES

- 2/3 States still use hanging with lethal injection as an alternative method
- New Hampshire, Washington
- 3 hanging procedures have been performed since 1976
- Last one was in 1996 in Delaware (Billy Bailey-left a work release facility, robbed a liquor store then killed an 80-year old man and his wife with a gun) He chose to be hanged over lethal injection.
- Other two were in Washington
- Japan hangs (2004), Iran (2008), Germany (1981), Canada (1962)
- Iraq hanged Saddam Hussein on 12-30-06

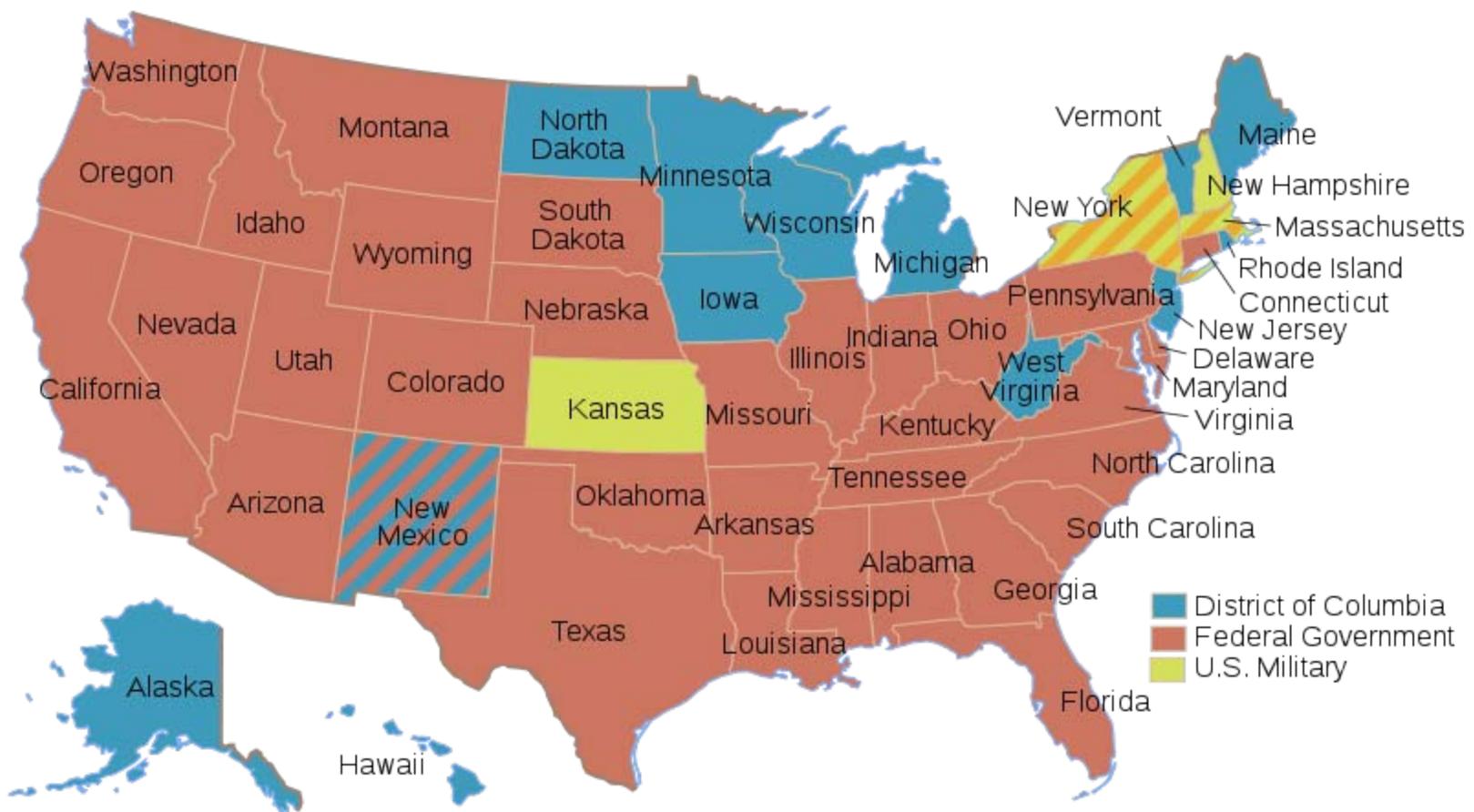
Crimes Punishable by the Death Penalty

DEATH PENALTY executions change by state



E. FIRING SQUAD PROCEDURES

- 2/3 States still use firing squad with lethal injection as an alternative method
- **Idaho, Oklahoma, Utah**
- **2+1** firing squad procedures have been performed since 1976
- June 18, 2010 Ronnie Lee Gardner- Utah
- A method of capital punishment, particularly common in times of war. The firing squad is generally composed of several soldiers or peace officers.
- The method of execution requires all members of the group to fire simultaneously, thus preventing both disruption of the process by a single member and identification of the member who fired the lethal shot.



Death penalty statutes in the United States

Color key:

No current death penalty statute

Statute or method declared unconstitutional

Not applied since 1976

Has performed execution since 1976

MURDER

SECOND DEGREE MURDER

Second-degree murder is ordinarily defined as an **intentional killing** that is NOT premeditated or planned, nor committed in a reasonable "heat of passion"

Sentence= no less than 10 year – no more than 25 years

For example, Robert comes home to find his wife in bed with Victor. At a stoplight the next day, Robert sees Victor riding in the passenger seat of a nearby car. Robert pulls out a gun and fires three shots into the car, missing Victor but killing the driver of the car.

MURDER

THIRD DEGREE MURDER

The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, **any felony other than any:**

- (a) Trafficking offense
- (b) Arson
- (c) Sexual battery
- (d) Robbery
- (e) Burglary
- (f) Kidnapping
- (g) Escape
- (h) Aggravated child abuse,
- (i) Aggravated abuse of an elderly person or disabled adult,
- (j) Aircraft piracy
- (k) Unlawful throwing, placing, or discharging of a destructive device or bomb,
- (l) Unlawful distribution of any substance controlled (cocaine, opium)
- (m) Carjacking
- (n) Home-invasion robbery
- (o) Aggravated stalking
- (p) Murder of another human being
- (q) Resisting an officer with violence to his or her person, or
- (r) Felony that is an act of terrorism or is in furtherance of an act of terrorism

IF a killing occurs while engaged in any of the offenses (a-r) then the sentence will be for FIRST DEGREE or SECOND DEGREE MURDER

MURDER

THIRD DEGREE MURDER

In the State of Florida a more common charge is that of Manslaughter

1. Unlawful killing (i.e. not allowed by some other law),
2. of a human being (i.e. killing a dog, monkey, or tree doesn't count),
3. perpetrated without any design to effect death (i.e. it wasn't intentional), and
4. by a person engaged in, or attempting to engage in, a felony **other than** those listed (i.e. it happened while committing some other crime, except that if it's one of a specific list of crimes, then it's first- or second-degree murder instead).

Third Degree Murder

- 609.195, Minnesota Statutes 2006
- **SENTENCE TO JAIL FOR NO LONGER THAN 25 YEARS OR PAY A FINE NOT MORE THAN \$40,000 OR BOTH**
- (a) Whoever, without intent to effect the death of any person, causes the death of another by perpetrating an act eminently dangerous to others and evincing a depraved mind, without regard for human life
- (b) Whoever, without intent to cause death, proximately causes the death of a human being by, directly or indirectly, unlawfully selling, giving away, bartering, delivering, exchanging, distributing, or administering a controlled substance classified in schedule I or II, is guilty of murder in the third degree

Pleading Insanity

- Mental disorder may apply to a wide range of disorders including psychosis caused by schizophrenia and dementia, and excuse the person from the need to undergo the stress of a trial as to liability.
- In some jurisdictions, following the pre-trial hearing to determine the extent of the disorder, the defense of "**not guilty by reason of insanity**" may be used to get a not guilty verdict.

This defense has two elements:

- That the defendant had a serious mental illness, disease, or defect.
- That the defendant's mental condition, **at the time** of the killing, rendered the perpetrator unable to determine right from wrong, or that what he or she was doing was wrong. ..
- **EXPERT WITNESSES NEEDED TO DETERMINE INSANITY PLEA**

Involuntary Manslaughter

- Involuntary manslaughter usually refers to an unintentional killing that results from recklessness or criminal negligence, or from an unlawful act that is a misdemeanor or low-level felony (such as DUI).
- For example: Dan comes home to find his wife in bed with Victor. Distraught, Dan heads to a local bar to drown his sorrows. After having five drinks, Dan jumps into his car and drives down the street at twice the posted speed limit, accidentally hitting and killing a pedestrian.

Voluntary Manslaughter

- Voluntary manslaughter is commonly defined as an intentional killing in which the offender had no prior intent to kill, such as a killing that occurs in the "heat of passion."
- The circumstances leading to the killing must be the kind that would cause a **reasonable person to become emotionally or mentally disturbed**; otherwise, the killing may be charged as a first-degree or second-degree murder.
- For example, Dan comes home to find his wife in bed with Victor. In the heat of the moment, Dan picks up a golf club from next to the bed and strikes Victor in the head, killing him instantly.

JUSTIFIABLE HOMICIDE

- A killing without evil or criminal intent, for which there can be no blame,
 - such as self-defense to protect oneself or
 - to protect another, or
 - the shooting by a law enforcement officer in fulfilling his/her duties.
 - Military duties at war
- This is not to be confused with a crime of passion or claim of diminished capacity which refer to defenses aimed at reducing the penalty or degree of crime

Accidental Death



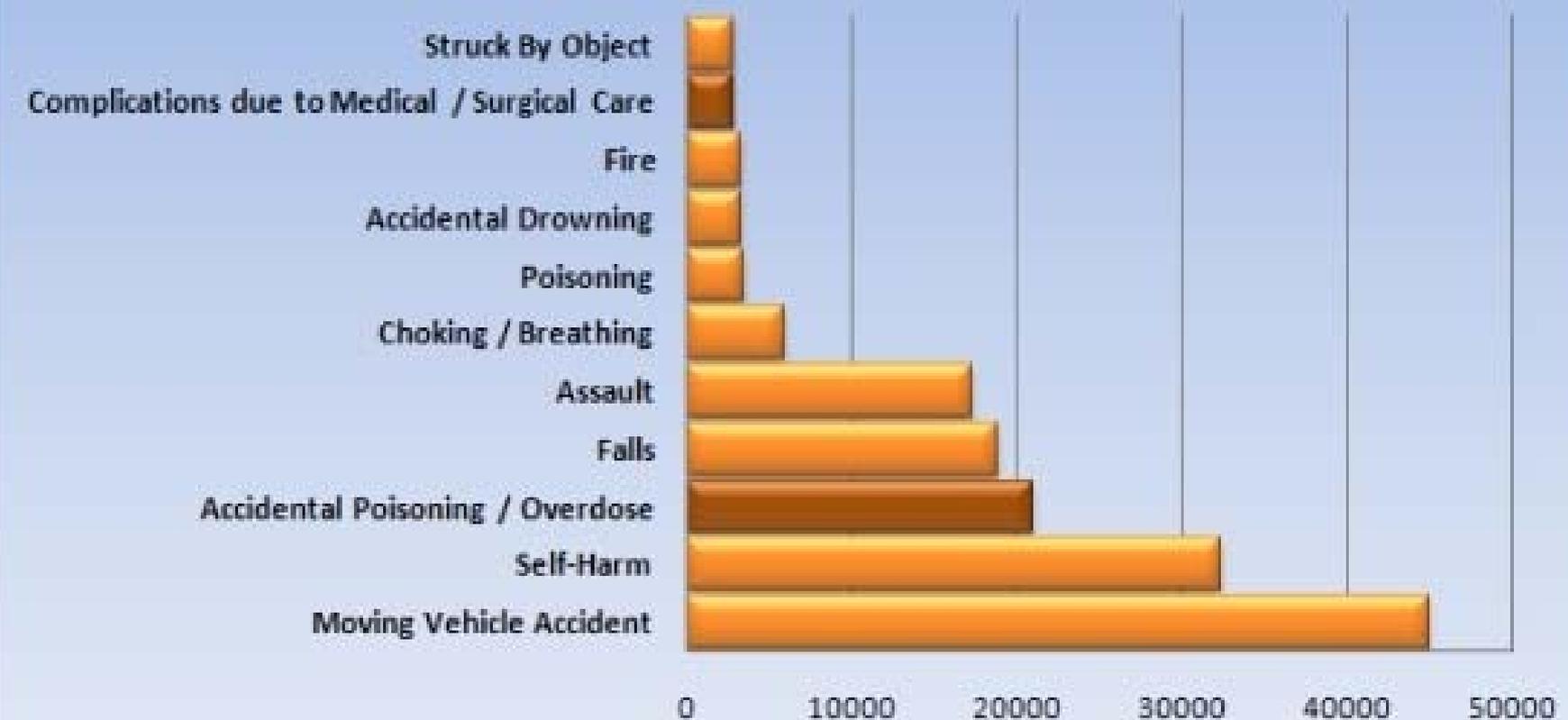
- Duty of care
- Involuntary manslaughter or negligence
- **TOP TEN CAUSES OF ACCIDENTAL DEATH IN USA:**
- Machinery (farmers) {350 deaths/ year}
- Medical/ Surgical complications (liposuction) {500/ yr}
- Poisoning by gases (CO poisoning) (700/ yr)
- Firearms (75% young males 14-25 years old) (1,500/ yr)
- Suffocation (choking) {3,300/ yr}
- Fires/ Burns (smoke inhalation) {1,500/ yr}
- Drowning (4,000/ yr)
- Poisoning by solids (shellfish) or liquids (drugs) {9,000/yr}
- Falls (15,000/yr)
- Motor vehicle crashes (43,000/yr)



Accidental Death

Accidental Deaths

Accidental Deaths by Cause in U.S. each year

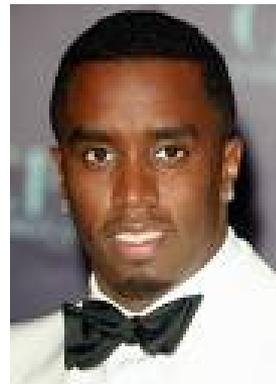
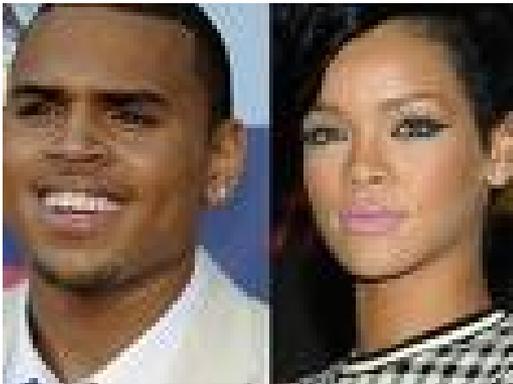


Source: National Safety Council

Assault and Battery



- In most states, an assault/battery is committed when one person
 - 1) tries to or does physically strike another, or
 - 2) acts in a threatening manner to put another in fear of immediate harm.



Aggravated Assault and Battery

- Many states declare that a more serious or "aggravated" assault/battery occurs when one
 - 1) tries to or does cause severe injury to another, or
 - 2) causes injury through use of a deadly weapon.

Historically, laws treated the threat of physical injury as "assault", and the completed act of physical contact or offensive touching as "battery," but many states no longer differentiate between the two.



GRAND THEFT AUTO



- It is not called "Grand Theft Auto" it is **grand theft in the second degree** or **grand theft in the third degree**.
- If the vehicle is less than \$20,000, it is grand theft in the third degree, above \$20,000 it is in the second degree:
 1. If the property stolen is valued at \$20,000 or more, but less than \$100,000; It is grand theft of the third degree and a felony of the third degree, punishable as provided in...if the property was stolen
 - a. Valued at \$300 or more, but less than \$5,000.
 - b. Valued at \$5,000 or more, but less than \$10,000.
 - c. Valued at \$10,000 or more, but less than \$20,000. "



A Second degree felony can be a 15 year sentence.

A Third degree is up to 5 years.



RAPE

- Sexual intercourse by a male with a female, who is not his wife, achieved by force or threat of force against the will of the victim.
- Statutory rape involves sexual intercourse with a minor who is regarded by law as incapable of giving lawful consent to the act.
- Force can include drugs administered by the male or the inability of the victim to understand what is happening.
- Men don't rape men, they sodomize.
- Spousal immunity in some old laws has been pretty much done away with.
- Women may be charged with rape as an accomplice.

CONSPIRACY

- Agreement between two or more people, beyond an undercover government agent, to commit an unlawful act, and some degree of intent. (white collar)
- A 'conspiracy' is an agreement or a kind of 'partnership' in criminal purposes in which each member becomes the agent or partner of every other member



BURGLARY



- One form of theft.
- Burglary is the unlawful entry of a 'structure' (which has a roof over it) to commit a felony or a theft. Burglary is commonly known as a "break in," or, "breaking and entering."
- A 'structure' is usually in reference to physical buildings but not cars. Car break-ins or thefts are considered larcenies. Modern code includes any building or similar structure, day or night, unlawful entry, with or without a breaking.
- People get robbed, not houses.



ROBBERY

- Robbery is the taking or attempting to take something of value from another person by use of force, threats or intimidation. It is committed in the presence of the victim.
- Robbery is commonly known as a "holdup" or a "stickup" (i.e. bank robbery or mugging).
- Robbery is a felony in the first degree if a firearm is present
- Robbery is a felony in the second degree if no firearm is present

Larceny



- It is one form of theft.
- Larceny is similar to burglary.
- The major difference between the two is that the perpetrator did not illegally enter a structure by using forcible, non- forcible or attempted forcible entry (with the exception of a motor vehicle
- The crime of taking the goods of another person without permission (usually secretly), with the intent of keeping them.
- Some states differentiate between **grand larceny** and **petty larceny** based on the value of the stolen goods.
- Grand larceny is a felony with a state prison sentence as a punishment and petty larceny is usually limited to county jail time.

Embezzlement

- Embezzlement is defined in most states as theft/larceny of assets (money or property) by a person in a position of trust or responsibility over those assets.
- Embezzlement typically occurs in the employment and corporate settings.
- For example, while working as a bank manager, Robert alters customer deposit receipts and account information, then siphons bank money into his own pocket.



FALSE PRETENSES

- FRAUD
- Using a County Seal wrongfully (notary public)
- Insurance scams
- Credit theft
- Cheating
- Altering identification marks
- False voter's registration
- Illegal immigration papers
- Unlawful use of a badge (all sorts)
- Counterfeit money
- Applies to persons who induce others to transfer property to them by means of misrepresentation, which must be to a material past or present fact that the seller knew to be false.



ARSON

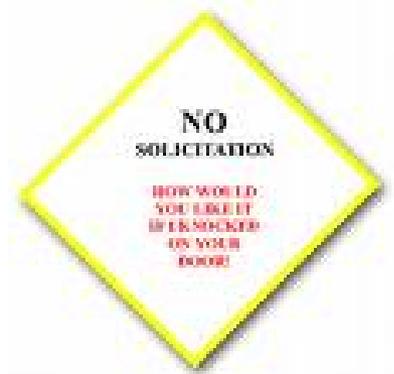


- To set fire to an object
- An intentional or reckless burning or explosion of a building owned by another person or, under limited circumstances, of a building owned by the actor.
- Arson/ Criminal Mischief is a felony in the second degree



SOLICITATION

- Urgently asking
- Agreement to commit a crime is a crime in itself.
- The hiring of an individual is just as liable as the actor.
- Door-to-door solicitation (FL has laws)
- Prostitution
- Dealing drugs
- Telemarketing (not illegal if certified)



AIDING AND ABETTING

- Aiding and abetting is a theory of criminal liability.
- You can be guilty of a crime either as a principal perpetrator or as an aider and abettor.
- Aiding and abetting applies to someone who assists in or facilitates the doing of a crime.
- To be held accountable as an aider and abettor, you must know of the criminal objective and do something to make it succeed.
- For example, if you drive your friend to a meeting where you know your friend is going to buy drugs, you may be aiding and abetting in the drug transaction.

MIRANDA RIGHTS

1966 case *Miranda vs Arizona*



MIRANDA RIGHTS

In 1963, **Ernesto Miranda** was arrested in Phoenix, Arizona for stealing \$8 from bank worker and charged with armed robbery. He already had a record for armed robbery, and a juvenile record including attempted rape, assault, and burglary. While in police custody he signed a written confession to the robbery, and to kidnapping and raping an 18-year-old woman 11 days before the robbery. After the conviction, his lawyers appealed, on the grounds that Miranda did not know he was protected from self-incrimination.

You have been Mirandized if you have heard this:

- 1. You have the right to remain silent.**
- 2. Anything you say can and will be used against you in a court of law.**
- 3. You have the right to an attorney.**
- 4. If you cannot afford an attorney, one will be appointed to you.**
- 5. Do you understand these rights as they have been read to you?**

Felony vs Misdemeanor

State Prison vs County Jail

- DUI=
- DUI with a crash=
- DUI with injury to other=
- DUI + crash +leaving the scene=
- DUI + leaving the scene of deadly crash=
- Hit a kid on a bike and leave scene...kid dies=
- Leaving the scene of any crash=
- Premeditated murder=
- Heat of passion crime=
- Grand Theft/ larceny=
- Petty Theft=
- Assault (verbal threatening) and Battery (hitting)=
- Aggravated assault and battery =
- Burglary=
- Break into a house and steal a bike worth \$301=
- Child Abuse=
- Kidnapping=
- Poisoning food or water=

As of October 1, 2008 MANDATORY MINIMUMS:

- Riding Wheelies or Smugglers Tag=
- Speeding over 50 mph over the limit =

Felony vs Misdemeanor

State Prison vs County Jail

- DUI= 1st and 2nd misdemeanor, 3rd+++ = felony within 10 years
- DUI with a crash= misdemeanor with property damage (more fines) inc. bond
- DUI with injury to other= misdemeanor as long as it is a minor injury
 - GOOD LUCK GETTING INSURANCE after this charge!!!
- DUI + crash +leaving the scene= no one gets hurt= Misdemeanor + other charges
- DUI + leaving the scene of deadly crash= FELONY
- Hit a kid on a bike and leave scene...kid dies= FELONY
- Leaving the scene of any crash= FELONY, you must stop and render aide
- Premeditated murder= Murder in the first degree...CAPITAL CRIME (death penalty)
- Heat of passion crime=Murder in the second degree
- Grand Theft/ larceny= over \$300 (or steal out of a house- over \$100)
- Petty Theft= under \$300 Misdemeanor. Goto County Jail if repeat offender
- Assault (verbal threatening) and Battery (hitting)= Misdemeanor
- Aggravated assault and battery = FELONY
- Burglary= FELONY (have to break in to a house or car or business)
- Break into a house and steal a bike worth \$301= Grand theft and Burglary
- Child Abuse= Discipline ok (corporal punishment)... FELONY otherwise (if marks)
- Kidnapping= FELONY
- Poisoning food or water= FELONY

As of October 1, 2008 MANDATORY MINIMUMS:

- Riding Wheelies or Smugglers Tag= 1st offense is \$1000, 2nd offense \$2500 (revoked for one year), 3rd offense= 3rd degree felony with \$5000 fine and 10 years of revoked license.
- Speeding over 50 mph over the limit = 1st offense \$1000 fine + court costs....