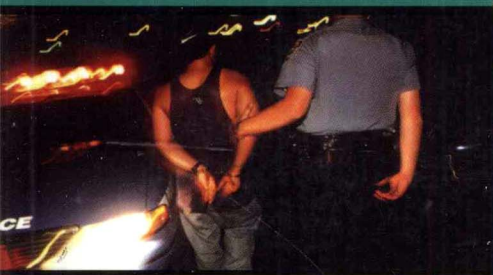


THIRD EDITION

CRIMINAL LAW



JOHN M. SCHEB & JOHN M. SCHEB, II

THIRD
EDITION

Criminal Law

JOHN M. SCHEB, J.D., LL.M.

*Judge, Florida Court of Appeals, Second District (Ret.)
Distinguished Professorial Lecturer, Stetson University College of Law*

JOHN M. SCHEB II, Ph.D.

*Professor of Political Science
University of Tennessee*

THOMSON



WADSWORTH

Australia • Canada • Mexico • Singapore • Spain • United Kingdom • United States



DISCLAIMER

In this textbook the authors have attempted to present the general principles of substantive and procedural criminal law. However, because of the variance in statutes and court decisions from state to state, it is recommended that students and officers conduct their own research or consult with their legal advisors and not assume that principles of law applicable in other states apply in their state.

Senior Executive Editor, Criminal Justice: Sabra Horne
 Acquisitions Editor: Shelley Murphy
 Assistant Editor: Dawn Mesa
 Editorial Assistant: Lee McCracken
 Technology Project Manager: Susan DeVanna
 Marketing Manager: Dory Schaeffer
 Marketing Assistant: Neena Chandra
 Project Manager, Editorial Production: Emily Smith
 Print/Media Buyer: Robert King

Permissions Editor: Elizabeth Zuber
 Production Service: Matrix Productions
 Text Designer: Adriane Bosworth
 Copy Editor: Donald Pharr
 Cover Designer: Yvo Riezebos
 Cover Image: Arrest Scene: Stone/Rex Viak; Scales: CORBIS
 Compositor: Shepherd Incorporated
 Text and Cover Printer: Transcontinental

COPYRIGHT © 2003 by Wadsworth, a division of Thomson Learning, Inc. Thomson Learning™ is a trademark used herein under license.

ALL RIGHTS RESERVED. No part of this work covered by the copyright hereon may be reproduced or used in any form or by any means—graphic, electronic, or mechanical, including but not limited to photocopying, recording, taping, Web distribution, information networks, or information storage and retrieval systems—without the written permission of the publisher.

Printed in Canada
 2 3 4 5 6 7 06 05 04 03

For more information about our products, contact us at:

Thomson Learning Academic Resource Center
1-800-423-0563

For permission to use material from this text, contact us by:

Phone: 1-800-730-2214 **Fax:** 1-800-730-2215

Web: <http://www.thomsonrights.com>

ExamView® and ExamView Pro® are registered trademarks of FSCreations, Inc. Windows is a registered trademark of the Microsoft Corporation used herein under license. Macintosh and Power Macintosh are registered trademarks of Apple Computer, Inc. Used herein under license.

Library of Congress Control Number: 2002105119

ISBN 0-534-52575-X

Wadsworth/Thomson Learning

10 Davis Drive
Belmont, CA 94002-3098
USA

Asia

Thomson Learning
 5 Shenton Way #01-01
 UIC Building
 Singapore 068808

Australia

Nelson Thomson Learning
 102 Dodds Street
 South Melbourne, Victoria 3205
 Australia

Canada

Nelson Thomson Learning
 1120 Birchmount Road
 Toronto, Ontario M1K 5G4
 Canada

Europe/Middle East/Africa

Thomson Learning
 High Holborn House
 50/51 Bedford Row
 London WC1R 4LR
 United Kingdom

Latin America

Thomson Learning
 Seneca, 53
 Colonia Polanco
 11560 Mexico D.F.
 Mexico

Spain

Paraninfo Thomson Learning
 Calle/Magallanes, 25
 28015 Madrid, Spain

*This Book Is Dedicated to
Mary Catherine Scheb*

About the Authors

JOHN M. SCHEB was born in Orlando, Florida, in 1926. He entered the practice of law in 1950. He served as municipal judge in Sarasota, Florida, from 1957 to 1959. From 1959 to 1970, he served as City Attorney for the city of Sarasota. In 1974 he was appointed to the Florida District Court of Appeal, second district, a position he held until his retirement in 1992. Judge Scheb is now a Senior Judge for the Florida Court System and Distinguished Professorial Lecturer at Stetson University College of Law in St. Petersburg. He holds the B.A. from Florida Southern College, the J.D. from the University of Florida, and the LL.M. from the University of Virginia.

JOHN M. SCHEB II was born in Sarasota, Florida, in 1955. He attended the University of Florida from 1974 to 1982, receiving the B.A., M.A., and Ph.D. in political science. He is now Professor of Political Science at the University of Tennessee, where he teaches courses in criminal law, constitutional law, administrative law, judicial process, and law in society. Professor Scheb has authored numerous articles in professional journals and is coauthor, with Otis H. Stephens Jr., of *American Constitutional Law*, Third Edition (West/Wadsworth, 2003).

Preface to the Third Edition

This textbook is intended to furnish students in criminology, criminal justice, pre-law, political science, and paralegal studies a concise yet comprehensive introduction to substantive criminal law. The book is also an appropriate reference for the criminal justice professional who needs to better understand the legal environment in which he or she must function. Of course, laws vary substantially across jurisdictions, and this text is not intended to be a substitute for independent legal research or competent legal advice.

Criminal law is among the most dynamic fields of American law. In this Third Edition of *Criminal Law*, we have tried to capture some of the important developments that have taken place in the three years since the Second Edition was completed. All of the chapters have been thoroughly updated, and several new excerpts from judicial decisions have been added. Some chapters have been substantially reorganized to make them more coherent and reader-friendly.

To enhance the book's pedagogical utility, we have expanded the use of examples and the "Case-in-Point" feature, which has proved popular in previous editions. We have also incorporated a new feature, "Supreme Court Perspective," that appears in a number of chapters and highlights recent decisions of the U.S. Supreme Court dealing with issues of criminal law and procedure.

Recognizing the increasing importance of the Internet in legal research, we have expanded our treatment of web-based research in our appendix on legal research methods. We have also incorporated "web-based research activities" into each of the chapters. We hope these changes make this book even more useful to students, instructors, and professionals.

Acknowledgments

We would like to thank Donna Buchholz, Esq., who recently received her J.D. degree from Stetson University College of Law; David Grammar Jr., Esq., who has retired from a successful practice of law in Albuquerque, New Mexico; and Sarah Palmer, Esq., staff attorney, Second District Court of Appeal, Lakeland, Florida. Each has contributed by reviewing manuscripts of various chapters. Sally G. Waters, Esq., research librarian at Stetson University College of Law, St. Petersburg, Florida,

reviewed our appendix on legal research and added up-to-date information on computerized legal research and use of the Internet.

We also wish to express our gratitude to Keith Clement and John Barbrey, political science graduate students at the University of Tennessee, who provided helpful research assistance in the area of sentencing laws.

As always, we wish to thank the team at Wadsworth Publishing—in particular, Sabra Horne, Shelley Murphy, Terri Edwards, Jennifer Somerville, and Dawn Mesa—for their excellent assistance throughout this project. We also wish to thank the reviewers of this edition.

Finally, we thank our wives, Mary Burns Scheb and Sherilyn Claytor Scheb, for their patience and support, without which the project could not have been undertaken, much less completed.

Naturally, we assume full responsibility for any errors contained herein. We welcome comments and suggestions from our readers.

John M. Scheb
judgescheb@aol.com

John M. Scheb II
scheb@utk.edu

Contents

Preface ix

PART I

Legal Foundations of Criminal Justice 1

CHAPTER 1 • Fundamentals of Criminal Law and Procedure 2

Introduction	3
What Is a Crime?	4
Civil and Criminal Law	7
The Origins and Sources of the Criminal Law	7
Constitutional Limitations on the Criminal Justice System	12
Stages in the Criminal Process	13
Criminal Punishment	20
Conclusion	23
Key Terms	23
Web-Based Research Activity	24
Questions for Thought and Discussion	24

CHAPTER 2 • Organization of the Criminal Justice System 26

Introduction	27
Legislatures	27
Law Enforcement Agencies	30
Prosecutorial Agencies	32

Defense Attorneys	34
Juries	35
The Courts	36
The Juvenile Justice System	43
The Corrections System	44
Conclusion	47
Key Terms	47
Web-Based Research Activity	48
Questions for Thought and Discussion	48

PART II

The Substantive Criminal Law 49

CHAPTER 3 • Constitutional Limitations on the Prohibition of Criminal Conduct 50

Introduction	51
The Power to Enact Criminal Laws	52
Bills of Attainder and <i>Ex Post Facto</i> Laws	54
The Bill of Rights	55
The First Amendment Freedom of Expression	56
Freedom of Assembly	60
Free Exercise of Religion	61
The Right to Keep and Bear Arms	63
The Doctrines of Vagueness and Overbreadth	63

The Prohibition Against Cruel and Unusual Punishments	65
The Constitutional Right of Privacy	65
Equal Protection of the Laws	67
Standards of Judicial Review	68
The Importance of State Constitutions	68
Conclusion	69
Key Terms	70
Web-Based Research Activity	70
Questions for Thought and Discussion	70
Problems for Discussion and Solution	71
Excerpts from Judicial Decisions	72
<i>Brandenburg v. Ohio</i>	72
<i>Miller v. California</i>	73
<i>Griswold v. Connecticut</i>	75

CHAPTER 4 • Elements of Crimes and Parties to Crimes 77

Introduction	78
The <i>Actus Reus</i> (The Act Requirement)	78
The <i>Mens Rea</i> (The Criminal Intent Requirement)	81
The Strict Liability Offenses	86
The Causation Requirement	87
Parties to a Crime	88
Conclusion	90
Key Terms	90
Web-Based Research Activity	91
Questions for Thought and Discussion	91
Problems for Discussion and Solution	91
Excerpts from Judicial Decisions	92
<i>People v. Valot</i>	92
<i>Morissette v. United States</i>	92

Chapter 5 • Inchoate Offenses 95

Introduction	96
Attempt	96
Solicitation	99
Conspiracy	101
Conclusion	107
Key Terms	107
Web-Based Research Activity	108

Questions for Thought and Discussion	108
Problems for Discussion and Solution	108
Excerpts from Judicial Decisions	109
<i>Bucklew v. State</i>	109
<i>State v. Keen</i>	111
<i>Gomez v. People</i>	113

CHAPTER 6 • Offenses Against Persons 115

Introduction	116
Assaultive Offenses	117
Homicide	121
Suicide	132
Rape and Sexual Battery	135
Abortion	144
Abusive Offenses	146
False Imprisonment and Kidnapping	148
Civil Rights Offenses	152
Hate Crimes	154
Conclusion	155
Key Terms	155
Web-Based Research Activity	156
Questions for Thought and Discussion	156
Problems for Discussion and Solution	157
Excerpts from Judicial Decisions	158
<i>State v. Towers</i>	158
<i>State v. Corder</i>	159
<i>Manuel v. State</i>	160
<i>State v. Studham</i>	162
<i>State v. Rothenberg</i>	163
<i>State v. Snider</i>	165

CHAPTER 7 • Crimes Against Property 167

Introduction	168
The Common-Law Theft Offenses	168
The Modern Approach to Theft Offenses	171
Robbery	175
Forgery and Uttering a Forged Instrument	179
Worthless Checks	181
Access Device Fraud	182
Habitation Offenses	183
Malicious Mischief	187

Extortion	187
Defenses to Property Crimes	188
Conclusion	189
Key Terms	189
Web-Based Research Activity	190
Questions for Thought and Discussion	190
Problems for Discussion and Solution	190
Excerpts from Judicial Decisions	191
<i>State v. Richard</i>	191
<i>Jones v. Commonwealth</i>	192
<i>Holloway aka Ali v. United States</i>	193
<i>State v. Gomez</i>	194
<i>State v. Feldt</i>	196
<i>State v. Tonnisen</i>	197

CHAPTER 8 • Offenses Against Public Morality 199

Introduction	200
Criminal Prohibitions of Sexual Conduct	202
Indecent Exposure	207
Obscenity	208
Profanity	213
Gambling	214
Conclusion	218
Key Terms	218
Web-Based Research Activity	218
Questions for Thought and Discussion	219
Problems for Discussion and Solution	219
Excerpts from Judicial Decisions	220
<i>Bowers v. Hardwick</i>	220
<i>Campbell v. Sundquist</i>	222
<i>Austin v. State</i>	224
<i>Radley v. State</i>	226
<i>United States v. Pinelli</i>	227

CHAPTER 9 • Alcohol and Drug Offenses 230

Introduction	231
Drug Offenses	231
Drug Courts: A New Approach	235
Intoxication Offenses	237
Conclusion	240
Key Terms	240

Web-Based Research Activity	241
Questions for Thought and Discussion	241
Problems for Discussion and Solution	241
Excerpts from Judicial Decisions	242
<i>Robinson v. California</i>	242
<i>Embry v. State</i>	243
<i>Powell v. Texas</i>	244
<i>People v. Randolph</i>	246

CHAPTER 10 • White-Collar and Organized Crime 248

Introduction	249
Legal Principles Governing White-Collar Crimes	249
Common Federal White-Collar Crimes	251
Organized Crime	259
Defenses in White-Collar and Organized Crime Cases	262
Conclusion	263
Key Terms	263
Web-Based Research Activity	264
Questions for Thought and Discussion	264
Problems for Discussion and Solution	264
Excerpts from Judicial Decisions	265
<i>Evans v. United States</i>	265
<i>United States v. Gambino</i>	267
<i>United States v. Lewis</i>	268

CHAPTER 11 • Offenses Against Public Health and the Environment 271

Introduction	272
Public Health Legislation	272
Planning and Zoning Laws	275
The Scope of Federal and State Environmental Statutes	276
Noise Pollution	281
Antismoking Legislation	283
Wildlife Protection Laws	283
Conclusion	285
Key Terms	286
Web-Based Research Activity	286
Questions for Thought and Discussion	286

Problems for Discussion and Solution	287
Excerpts from Judicial Decisions	287
<i>United States v. Sellers</i>	287

CHAPTER 12 • Offenses Against Public Order and Safety 289

Introduction	290
Breaches of the Peace	290
Vagrancy, Loitering, and Curfews	294
Motor Vehicle Violations	299
Weapons Offenses	300
Conclusion	302
Key Terms	302
Web-Based Research Activity	303
Questions for Thought and Discussion	303
Problems for Discussion and Solution	304
Excerpts from Judicial Decisions	305
<i>Commonwealth v. Young</i>	305
<i>City of Chicago v. Morales</i>	306
<i>State v. Young</i>	310
<i>United States v. Evans</i>	311
<i>United States v. Lopez</i>	311

CHAPTER 13 • Offenses Against Justice and Public Administration 313

Introduction	314
Bribery	314
Perjury	317
Obstruction of Justice	320
Resisting Arrest	321
Compounding a Crime	322
Escape	323
Contempt	325
Conclusion	327
Key Terms	328
Web-Based Research Activity	328
Questions for Thought and Discussion	328
Problems for Discussion and Solution	329
Excerpts from Judicial Decisions	330
<i>State v. Gustafson</i>	330
<i>United States v. Scott</i>	331
<i>State v. Blanton</i>	333
<i>State v. Ring</i>	335

CHAPTER 14 • Criminal Responsibility and Defenses 336

Introduction	337
Defenses in General	337
Defenses Asserting Lack of Capacity to Commit a Crime	338
Defenses Asserting Excuse or Justification	344
Defenses Justifying the Use of Force	350
Defenses Based on Constitutional and Statutory Authority	357
Defenses Based on Improper Government Conduct	362
Nontraditional Defenses	366
Conclusion	369
Key Terms	370
Web-Based Research Activity	371
Questions for Thought and Discussion	371
Problems for Discussion and Solution	372
Excerpts from Judicial Decisions	373
<i>Latimore v. State</i>	373
<i>United States v. Freeman</i>	374
<i>State v. Freeman</i>	375
<i>People v. Greene</i>	377
<i>Cruz v. State</i>	379

APPENDIX A • Access to the Law Through Legal Research 381

The Nature of Legal Research	381
Primary Legal Sources	381
Secondary Sources	390
Computerized Legal Research	395
How to Research a Specific Point of Law	396
Conclusion	398

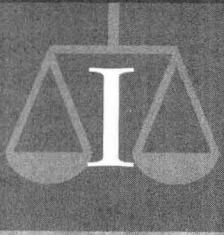
APPENDIX B • The Constitution of the United States of America 399

Glossary 413

Table of Cases 440

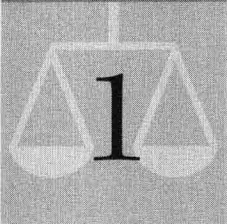
Index 445

P A R T



Legal Foundations of Criminal Justice

-
- CHAPTER 1** **Fundamentals of Criminal Law and Procedure**
- CHAPTER 2** **Organization of the Criminal Justice System**



Fundamentals of Criminal Law and Procedure

CHAPTER OUTLINE

Introduction

What Is a Crime?

Civil and Criminal Law

The Origins and Sources of the Criminal Law

Constitutional Limitations on the Criminal Justice System

Stages in the Criminal Process

Criminal Punishment

Conclusion

Key Terms

Web-Based Research Activity

Questions for Thought and Discussion

Introduction

One of the fundamental problems facing any society is how to achieve social control—protecting people’s lives and property and establishing socially desirable levels of order, harmony, safety, and decency. Societies have developed several informal means of achieving this control, including family structures, social norms, and religious precepts. In contrast, law is a formal means of social control. Law can be defined as a body of rules prescribed and enforced by government for the regulation and protection of society. Criminal law is that branch of the law prohibiting certain forms of conduct and imposing penalties on those who engage in prohibited behavior.

All modern societies have developed systems for administering criminal justice. In democratic societies such as ours, a person cannot be convicted of a crime unless he or she has committed a specific offense against a law that provides for a penalty. This principle is expressed in the maxim *nullem crimen, nulla poena, sine lege*, a Latin saying that means “there is no crime, there is no punishment, without law.” In the United States, formal law governs every aspect of criminal justice, from the enactment of criminal prohibitions to the enforcement of those prohibitions and the imposition of punishment.

Our criminal law prescribes both substantive and procedural rules governing the everyday operation of the criminal justice system. **Substantive criminal law** prohibits certain forms of conduct by defining crimes and establishing the parameters of penalties. **Procedural criminal law** regulates the enforcement of the substantive law, the determination of guilt, and the punishment of those found guilty of crimes. For example, although substantive law makes the possession of heroin a crime, the procedural law regulates the police search and seizure that produce the incriminating evidence. The substantive law makes premeditated murder a crime; the procedural law determines the procedures to be observed at trial and, if a conviction ensues, at sentencing.

Figure 1.1 provides an overview of the system of criminal law and procedure that exists in this country. The figure suggests three fundamental principles at work:

1. **Constitutional supremacy.** In keeping with the ideal of the **rule of law**, the entire system of criminal law and procedure is subordinate to the principles and provisions of the United States Constitution. The Constitution sets forth the powers of government, the limits of those powers, and the rights of individuals. The Constitution thus limits government’s power to make and enforce criminal sanctions in several important ways. These limitations are enforced by **judicial review**, which is the power of courts of law to invalidate substantive laws and procedures that are determined to be contrary to the Constitution.
2. **Federalism.** There is a fundamental division of authority between the national government in Washington, D.C., and the fifty state governments. Although both levels of government have authority and responsibility in the realm of criminal justice, most of the day-to-day peacekeeping function is exercised by the states and their political subdivisions (primarily counties and cities). Each of the states has its own machinery of government as well as its own constitution that empowers and limits that government. Each state constitution imposes limits on the criminal justice system within that state. Of course, the provisions of the state constitutions, as well as the statutes adopted by the state legislatures, are subordinate to the provisions of the U.S. Constitution and the laws adopted by Congress.

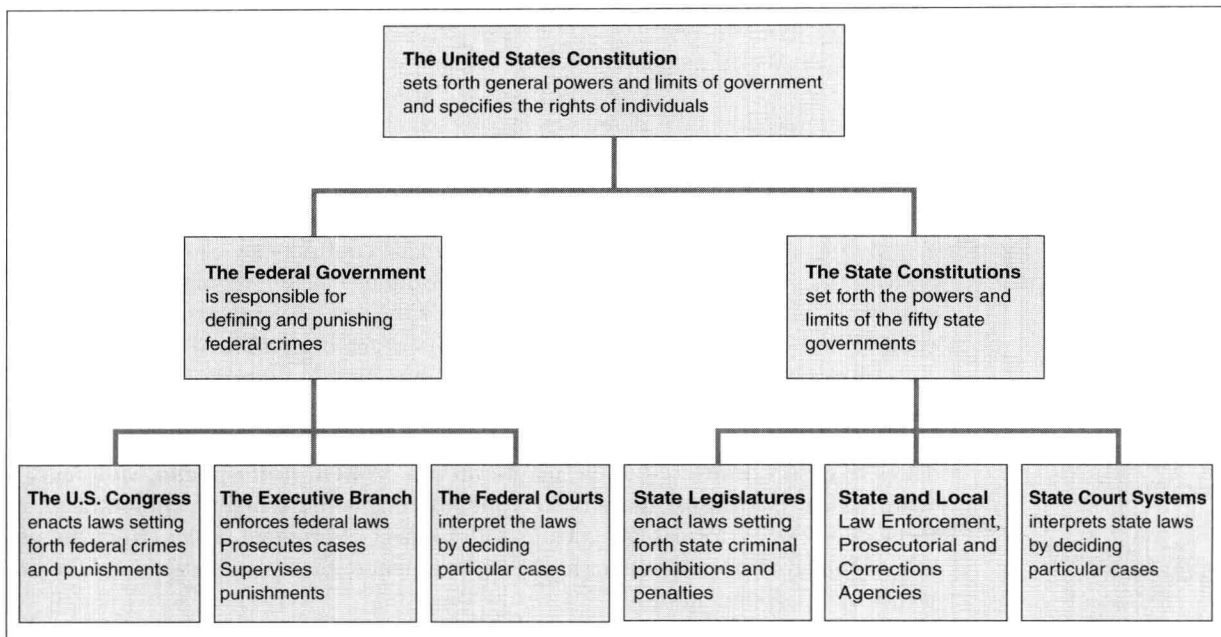


FIGURE 1.1 Overview of the American System of Criminal Law and Procedure

3. **Separation of powers.** The national government and each of the fifty state governments are constructed on the principle that legislative, executive, and judicial powers must be separated into independent branches of government. Thus, the federal government and the states have their own legislative branches, their own executive branches, and their own system of courts. The legislative branch is responsible for enacting laws that specify crimes and punishments. The executive branch is responsible for enforcing those prohibitions and for carrying out the punishments imposed by the judicial branch, but it is the judicial branch that interprets the laws and ensures that persons charged with crimes receive fair treatment by the criminal justice system.

What Is a Crime?

Every crime involves a wrongful act (*actus reus*) specifically prohibited by the criminal law. For example, in the crime of battery, the *actus reus* is the striking or offensive touching of another person. Even the failure to take action can be considered a wrongful act if the law imposes a duty to take action in a certain situation. For example, a person who fails to file a federal income tax return is guilty of a federal offense.

In most cases, the law requires that the wrongful act be accompanied by criminal intent (*mens rea*). Criminal intent does not refer to a person's motive or reason for acting, but merely to having formed a mental purpose to act. To convict a person of a crime, it is not necessary to know why a person committed a crime. It is only necessary to show that the individual intentionally committed a prohibited act. An unintentional act is usually not a crime although, as we will discover, there are exceptions to this principle. Moreover, in certain instances, one may be held criminally responsible irrespective of intent. Crimes of this latter nature are classified as **strict liability**

offenses. A good example of a strict liability offense is selling liquor to a minor. (Strict liability offenses and general elements of crimes are discussed in Chapter 4.)

Felonies and Misdemeanors

Criminal law distinguishes between serious crimes, known as **felonies**, and less serious offenses, called **misdemeanors**. Generally speaking, felonies are offenses for which the offender can be imprisoned for more than one year; misdemeanors carry jail terms of less than one year. Common examples of felonies include murder, rape, kidnapping, arson, assault with a deadly weapon, robbery, and grand larceny. Typical misdemeanors include petit theft, simple assault and battery, public drunkenness, disorderly conduct, prostitution, gambling, and various motor vehicle infractions.

Societal Interests Served by the Criminal Law

We can distinguish among types of crimes by the underlying societal interests that give rise to criminal prohibitions. Obviously, government has a duty to protect the lives and property of citizens—this is the essence of the social contract on which democratic government is based. But society also has an interest in protecting the public peace, order, and safety. Traditionally, the preservation of public morality has been regarded as an important function of the criminal law, although recently this notion has come under attack. Increasingly, the protection of the public health and the preservation of the natural environment are being recognized as societal interests that should be furthered by the criminal law. Finally, society has an interest in efficient and honest public administration and, in particular, the administration of justice. Table 1.1 lists the societal interests served by the criminal law and shows some particular crimes that relate to each interest. The table also indicates the chapters in

Table 1.1 An Overview of Types of Crimes and the Societal Interests Involved

Societal Interest Being Served	Examples of Crimes	Discussed in
Protection of Persons Against Violence	Assault and Battery, Rape and Sexual Battery, Murder, Manslaughter, Spousal and Child Abuse, Kidnapping, Stalking	Chapter 6, "Offenses Against Persons"
Protection of Private Property	Vandalism, Theft, Burglary, Arson, Extortion, Forgery, Larceny, Fraud, Embezzlement	Chapter 7, "Crimes Against Property" (See also Chapter 10, "White-Collar and Organized Crime")
Maintenance of Traditional Morality	Prostitution, Sodomy, Obscenity, Incest, Bigamy, Indecent Exposure, Lewd and Lascivious Conduct, Illegal Gambling, Alcohol and Drug Offenses	Chapter 8, "Offenses Against Public Morality" (see also Chapter 9, "Alcohol and Drug Offenses")
Public Health and the Natural Environment	Fishing and Hunting Violations, Smoking Violations, Illegal Toxic Waste Disposal, Illegal Air Pollution	Chapter 11, "Offenses Against Public Health and the Environment"
Public Peace, Order, and Safety	Disorderly Conduct, Incitement to Riot, Motor Vehicle Offenses, Loitering, Weapons Violations, Alcohol and Drug Offenses	Chapter 12, "Offenses Against Public Order and Safety" (see also Chapter 9, "Alcohol and Drug Offenses")
Honest and Efficient Public Administration and the Administration of Justice	Resisting Arrest, Bribery, Perjury, Obstruction of Justice, Contempt of Court, Escape	Chapter 13, "Offenses Against Justice and Public Administration"

this book that deal with the different types of crimes. Note that some of the crimes relate to more than one societal interest.

Crime: An Injury Against Society

As suggested by the previous discussion of the societal interests served by the criminal law, our legal system regards crimes not merely as wrongs against particular victims but as offenses against the entire society. Indeed, there does not have to be an individual victim for there to be a crime. For example, it is a crime to possess cocaine, even though it is unlikely that a particular individual will claim to have been victimized by another person's use of the drug. This is a crime because society, through its governing institutions, has made a collective judgment that cocaine use is inimical to the public welfare. Similarly, certain consensual sexual acts (for example, sodomy) remain crimes in some jurisdictions because communities continue to regard such actions as contrary to public morality. Of course, as society evolves and its standards change, behaviors that were once defined as crimes (for example, fornication) are no longer subject to criminal sanction. Over time, the particular prohibitions of the criminal law more or less reflect an evolving social consensus about both what is right and wrong and what is public and private. When a particular criminal prohibition is no longer supported by societal consensus (for example, adultery), it is apt to be unenforced or be stricken from the laws.

Because crime is an injury against society, government, as society's legal representative, brings charges against persons accused of committing crimes. In the United States, we have a federal system—that is, a division of power and responsibility between the national and state governments. Both the national government and the states enact their own criminal laws. Thus, both the national government and the state governments may prosecute persons accused of crimes. The national government initiates a prosecution when a federal (national) law has been violated; a state brings charges against someone who is believed to have violated one of its laws. (Chapter 2 discusses the organization of courts and the various actors in the criminal justice system.)

Criminal Responsibility

The criminal law, indeed our entire legal system, rests on the idea that individuals are responsible for their actions and must be accountable for them. This is the essential justification and rationale for imposing punishments on persons convicted of crimes. On the other hand, society recognizes that certain individuals (for example, young children) lack the capacity to appreciate the wrongfulness of their conduct. Similarly, factors beyond individuals' control can lead them to commit criminal acts. In such instances the law exempts individuals from responsibility. Moreover, there are situations in which acts that would otherwise be crimes might be justified. The best example of this is committing a homicide in self-defense. Individuals can invoke a host of defenses beyond a simple denial of guilt. Indeed, a substantial body of law is devoted to the topic of **criminal responsibility** and defenses. We examine this topic in some detail in Chapter 14.

The Role of the Crime Victim

Because the government prosecutes criminals on behalf of society, the **victim** of a crime is not a party to the criminal prosecution. By filing a complaint with a law enforcement agency, a victim initiates the process that leads to prosecution, but once