

1.4: Classification of Crimes

Learning Objectives

1. Ascertain the basis for grading.
2. Compare *malum in se* and *malum prohibitum* crimes.
3. Compare the punishment options for felonies, misdemeanors, felony-misdemeanors, and infractions.
4. Compare jail and prison.

Crimes can be classified in many ways. Crimes also can be grouped by subject matter. For example, a crime like assault, battery, or rape tends to injure another person's body, so it can be classified as a "crime against the person." If a crime tends to injure a person by depriving him or her of property or by damaging property, it can be classified as a "crime against property." These classifications are basically for convenience and are not imperative to the study of criminal law.

More important and substantive is the classification of crimes according to the severity of punishment. This is called **grading**. Crimes are generally graded into four categories: **felonies**, **misdemeanors**, **felony-misdemeanors**, and **infractions**. Often the criminal intent element affects a crime's grading. *Malum in se* crimes, murder, for example, are evil in their nature and are generally graded higher than *malum prohibitum* crimes, which are regulatory, like a failure to pay income taxes.

Felonies

Felonies are the *most serious* crimes. They are either supported by a heinous intent, like the intent to kill, or accompanied by an extremely serious result, such as loss of life, grievous injury, or destruction of property. Felonies are serious, so they are graded the highest, and all sentencing options are available. Depending on the jurisdiction and the crime, the sentence could be execution, **prison** time, a fine, or alternative sentencing such as probation, rehabilitation, and home confinement. Potential consequences of a felony conviction also include the inability to vote, own a weapon, or even participate in certain careers.

Misdemeanors

Misdemeanors are *less serious* than felonies, either because the intent requirement is of a lower level or because the result is less extreme. Misdemeanors are usually punishable by **jail** time of one year or less per misdemeanor, a fine, or alternative sentencing like probation, rehabilitation, or community service. Note that incarceration for a misdemeanor is in jail rather than prison. The difference between jail and prison is that cities and counties operate jails, and the state or federal government operates prisons, depending on the crime. The restrictive nature of the confinement also differs between jail and prison. Jails are for defendants who have committed less serious offenses, so they are generally less restrictive than prisons.

Felony-Misdemeanors

Felony-misdemeanors are crimes that the government can prosecute and punish as *either* a felony or a misdemeanor, depending on the particular circumstances accompanying the offense. Depending on the jurisdiction, the discretion to decide whether a crime is prosecuted as a felony or misdemeanor resides with the *judge* or *prosecutor*.

Infractions

Infractions, which can also be called **violations**, are the least serious crimes and include minor offenses such as jaywalking and motor vehicle offenses that result in a simple traffic ticket. Infractions are generally punishable by a fine or alternative sentencing such as traffic school.

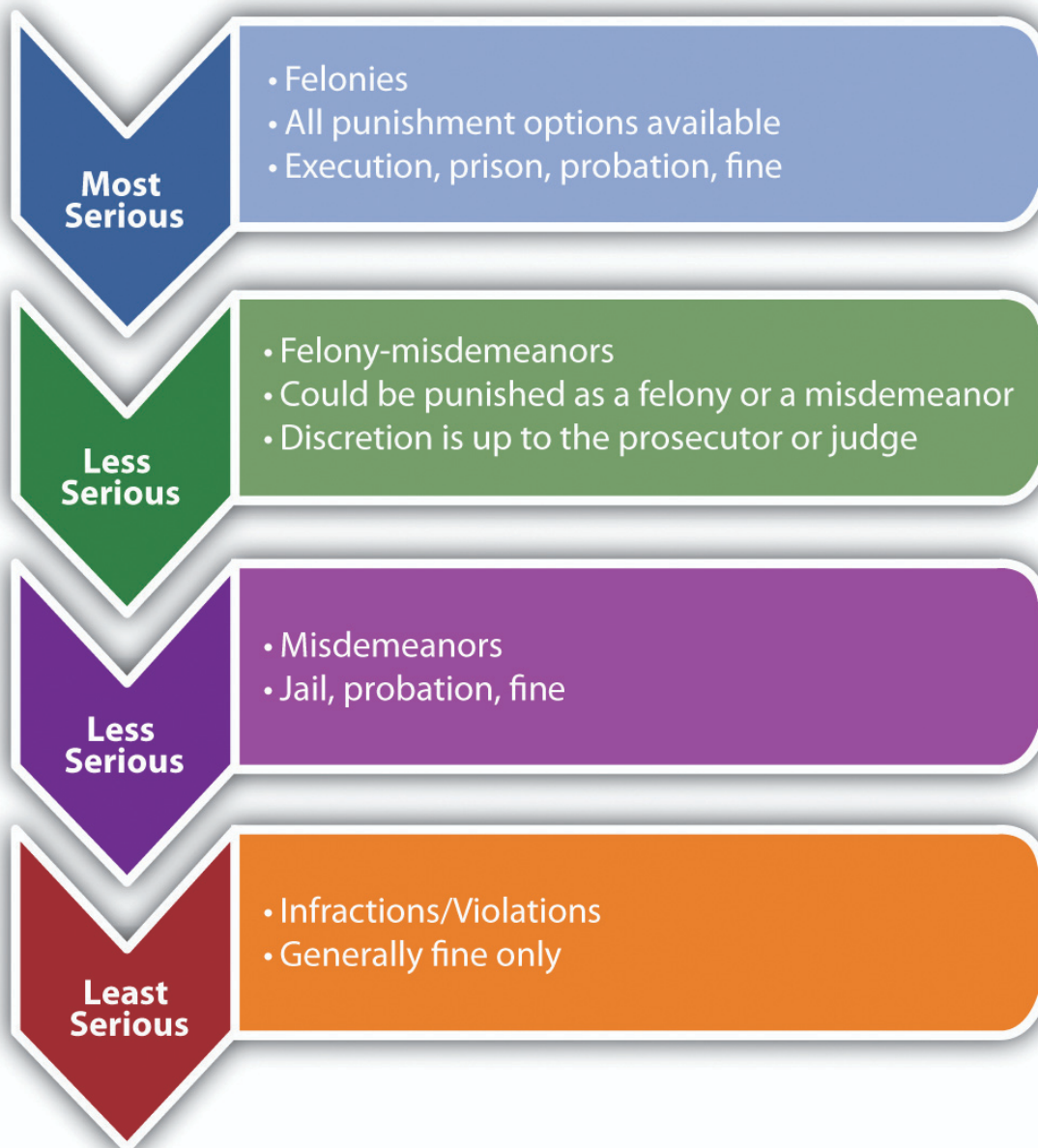


Figure 1.4 Diagram of Grading

Key Takeaways

- Grading is based on the severity of punishment.
- Malum in se crimes are evil in their nature, like murder. Malum prohibitum crimes are regulatory, like a failure to pay income taxes.
- Felonies are graded the highest. Punishment options for felonies include the following:
 - Execution
 - Prison time
 - Fines
 - Alternative sentencing such as probation, rehabilitation, and home confinement
- Misdemeanors are graded lower than felonies. Punishment options for misdemeanors include the following:
 - Jail time of one year or less per misdemeanor
 - Fines
 - Alternative sentencing such as probation, rehabilitation, and community service

- Felony-misdemeanors are punished as either a felony or a misdemeanor.
- Infractions, also called violations, are graded lower than misdemeanors and have less severe punishment options:
 - Fines
 - Alternative sentencing, such as traffic school
- One difference between jail and prison is that cities and counties operate jails, and the state or federal government operates prisons, depending on the crime. The restrictive nature of the confinement is another difference. Jails are for defendants who have committed less serious offenses, so they are generally less restrictive than prisons.

Exercises

? Exercise 1.4.1

Harrison kills Calista and is prosecuted and sentenced to one year in jail. Did Harrison commit a felony or a misdemeanor?

Answer

This crime is probably a *misdemeanor* because Harrison was sentenced to one year in *jail*, rather than prison. Although the result, Calista's death, is very serious, the method of killing may have been accidental. Criminal homicide is discussed in [Chapter 9](#).

? Exercise 1.4.2

Read [State v. Gillison](#), No. 9-031/08-1146 (Iowa Ct. App. 2009). Why did the Iowa Court of Appeals rule that the defendant's prior convictions were felony convictions? What impact did this ruling have on the defendant's sentence?

Answer

The Iowa Court of Appeals based its ruling on New Jersey law. Although New Jersey named the offenses "high misdemeanors," New Jersey case law indicates that any offense with a sentence of one year or more of incarceration is a common-law *felony*. This triggered a sentencing enhancement increasing the defendant's sentence to an indeterminate sentence of incarceration not to exceed fifteen years.

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