

## CHAPTER OVERVIEW

### Chapter 3: Criminal Law

#### Learning Objectives

After reading this section, students will be able to:

- Distinguish between a criminal wrong, a civil wrong, and moral wrong.
- Identify the many ways in which criminal law is classified.
- Recognize the many sources of substantive and procedural criminal law.
- Identify the limitations that the federal constitution and state constitutions place on creating substantive laws and enforcing those laws.
- Recognize the importance of rule of law in American jurisprudence and understand the importance of judicial review in achieving rule of law.

This section examines the fundamental principles of criminal law. It describes the functions of formal criminal law (what criminal law does and what it cannot do), how crimes differ from civil and moral wrongs, and various classification schemes used in discussing criminal law. This section also examines the sources of substantive and procedural criminal law (where we look to find our criminal law), the limitations that the constitution places on both substantive criminal law and procedural criminal law, and the important concept of the rule of law in American jurisprudence (legal theory).

#### Critical Thinking Questions

1. What does formal law do well? What does formal law not do so well?
2. Should we be able to impose sanctions for violations of moral wrongs?
3. Consider the constitutional requirement of separate but equal branches of government. Why do you think the drafters of the constitution intended each of the branches of government to be a check on each other? How does that “play out” when deciding what laws should be made and what laws should be enforced? What current issues are you aware of that highlight the importance of three separate but equal branches of government?
4. How does direct democracy (in the form of ballot measures and propositions) influence substantive criminal law (creating crimes and punishing crimes). What, if any, are the advantages of using direct democracy to create and punish crime? What, if any, are the disadvantages?
5. Consider state-wide decriminalization of marijuana possession and use across the nation and the federal statute banning possession and use of marijuana. How should this federal/state conflict be resolved? Does your opinion change if the behavior is one that you favor or disfavor?

[3.1: Functions and Limitations of Law](#)

[3.2: Civil, Criminal, and Moral Wrongs](#)

[3.3: Sources of Criminal Law - Federal and State Constitutions](#)

[3.4: Sources of Criminal Law - Statutes, Ordinances, and Other Legislative Enactments](#)

[3.5: Sources of Law - Administrative Law, Common Law, Case Law and Court Rules](#)

[3.6: Classifications of Law](#)

[3.7: Substantive Law - Defining Crimes, Inchoate Liability, Accomplice Liability, and Defenses](#)

[3.8: Substantive Law - Punishment- Incarceration and Confinement Sanctions](#)

[3.9: Substantive Law - Physical Punishment Sentences](#)

[3.10: Substantive Law - Monetary Punishment Sentences](#)

[3.11: Substantive Law - Community-Based Sentences](#)

[3.12: Procedural Law](#)

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