



The Washington Post/Getty Images

Crimes Against Property

Learning Objectives

After reading this chapter and studying the materials, you should be able to:

1. Explain the individual elements between the degrees of robbery.
2. Explain the individual elements between the degrees of burglary.
3. Identify differences between theft-related offenses such as theft, credit card fraud, and forgery.
4. Analyze the required elements of the various types of crimes against property.

Stealing property is one of the oldest acts of criminal behavior. Indeed, humans have continually discovered new ways to steal. The very first theft may have involved one caveman stealing his neighbor's rocks, but crime has since evolved into complicated international Internet schemes. Although people still shoplift cigarettes from their local grocery store, the 21st century has also given rise to criminals like Bernie Madoff, who stole millions of dollars through a sophisticated **Ponzi scheme**. Despite their differences, these crimes all have one common element: taking something that belongs to another person.

Criminals also cause damage to property that belongs to others. Arson crimes cause millions of dollars of damages each year and occasionally result in injury or death. Acts of criminal damaging and vandalism seem to be expanding in both quantity and scope. In this chapter you will examine how the law works to prosecute and punish the robbers, burglars, thieves, and vandals that victimize communities. The crimes will include robbery, burglary, theft, extortion, arson, and vandalism.

5.1 Robbery Crimes

As with the other criminal offenses, each jurisdiction adopts unique names and elements for robberies. You may encounter names such as armed robbery, strong-armed robbery, aggravated robbery, and first or second degree versions of the crime. Many states will distinguish between levels of robbery; the most serious are committed with weapons.

Robbery With a Weapon

Every state includes an armed robbery statute in its criminal code. These prohibit the use of a weapon to commit a theft offense. These crimes typically provide the most severe punishments for any of the robbery- or theft-related offenses. The classic example of an armed robbery involves a suspect who pulls a gun on another person and demands money. There is, of course, a federal robbery statute as well. It is a violation of the U.S. Code to rob a federally insured bank or other federal institution. As discussed in Chapter 3, homicides and assaults are often linked with these crimes. A typical armed



Associated Press

Patty Hearst, kidnap victim and bank robber, is seen here holding a rifle during a 1974 San Francisco bank robbery. Hearst was sentenced to 35 years in prison, but her sentence was commuted because her actions were later shown to be the result of Stockholm syndrome, a psychological condition in which a hostage sympathizes with his or her kidnappers.

robbery statute might read: *No person, while committing a theft offense shall use, display, brandish, or threaten the use of a deadly weapon.*

Often, multiple offenses occur during an armed robbery that can increase the number and severity of the charges filed against a suspect. For example, if a robber shoots and kills someone during a robbery, he or she would face a first degree murder charge in addition to armed robbery. Recall that if a person purposely kills another during the commission of a robbery, then it falls under the felony murder statutes. The crime of armed robbery carries severe penalties in all jurisdictions. Most states have additional penalties when the weapon used is a loaded firearm.

Home invasion is another example of an armed robbery crime with the potential to fall under felony murder statutes. Indeed, typical home invasion crimes escalate to violence rather quickly, often with fatal consequences. As you will discover in the burglary section, this conduct may meet the elements for first degree burglary as well. In that case either charge is appropriate.



Concept Check: Brandon is walking home late one night. A man dressed in dark clothes and a ski mask suddenly appears from a side street. He points a gun at Brandon and demands his wallet and keys, which Brandon promptly hands over. The man takes Brandon's belongings and runs away into the darkness. What crime has been committed?

Answer: This conduct meets the elements of armed robbery. The offender has used a deadly weapon for the purpose of taking the victim's property. While this scenario is quite simple, the same elements occur whether a robber holds up a store, a gas station, or an individual. It does not matter whether the threat is made with a gun or a baseball bat; it still meets the elements of the serious armed robbery charge.

Carjacking is when a thief takes someone's car by force or threat of force. In most cases drivers are stopped at a red light when someone suddenly appears at their window with a gun. The carjacker shoves the person out into the street, and the victim can only helplessly watch the thief drive away. This carjacker has committed armed robbery as well as assault. In the worst scenarios, the suspect forces a victim to stay in the car and drive. In this case the offender is also committing kidnapping. In 1989 in Cincinnati, Ohio, a man pulled a gun on a woman and forced her to drive away in her minivan. Her baby was in the backseat, strapped into a car seat. The woman intentionally wrecked the van, grabbed her baby, and got away. The man was arrested and successfully prosecuted for armed robbery and two counts of kidnapping.

Robbery Without a Weapon

Robberies not committed with weapons are often labeled as strong-armed or second degree robberies. Some states identify this offense simply as robbery, as opposed to classifying it as the more serious aggravated robbery or armed robbery. These offenses

involve the use or threat of force without a weapon. For example, a strong-armed robbery occurs in the event a suspect beats a victim and then steals his or her property. It is not uncommon for a crime that begins as a petty theft to turn into a robbery. Common statutory language might include: *No person, while committing a theft offense, shall use or threaten the use of physical harm.*

These robberies occur in situations where physical force is used or threatened, although rarely is serious physical harm inflicted. For example: Melissa walks through the mall. Mark runs past her and grabs the purse hanging from her shoulder. However, Melissa is holding her purse tightly, and Mark can't easily snatch it from her. When she pulls back and yells for him to leave her alone, he hits her in the face. As she falls down, he wrestles the purse from her and runs away. In this instance the behavior changes from a petty theft (purse snatching) to a robbery because Mark used physical force to commit a theft. The same is true for shoplifting cases in which a security officer or a store clerk tries to stop a thief. If the suspect uses a weapon, the crime is elevated to an armed robbery.



Consider This: Were There Multiple Crimes Committed?

Terry, the security officer at a department store, notices a man stuffing a package of socks down his pants. Without paying for the items, the man walks out the front door toward the parking lot. Terry follows him and orders him to stop, and a chase ensues. As Terry is just about to catch him, the thief spins around and attacks Terry with a box cutter. He slices Terry across the arm, cutting the tendons in his wrist. What crime(s) has the suspect committed?

5.2 Burglary Crimes

The term *burglary* is a widely used and general term. It is an area of law in which states take a variety of approaches. Generally, **burglary** is defined as a crime committed when someone trespasses into a building or private structure in order to commit a crime. However, individual jurisdictions make distinctions regarding the time of day the crime is committed; whether the structure is occupied; the type of structure; whether it is a home or business; and if there is threatening behavior. Burglary is surrounded by a number of misconceptions. For example, people will often say that their house was robbed, but this is usually incorrect. Robberies only occur in the event someone invades a home and threatens the people present in order to steal their things. Otherwise, the crime is burglary. It is only classified as a robbery if a threat is conveyed to someone.

Most states no longer require a thief to forcibly break and enter into a property in order to classify a crime as burglary. Trespassing by force, stealth, or deception is sufficient for unlawful entry. **Trespassing** is simply entering a premise without permission or authority. It may be done by some type of force, such as prying open a window or door or cutting through a roof. It can also be accomplished by stealth or deception. For example,



iStockphoto

Burglary, or trespassing, is defined as committing a crime upon unlawfully entering a premise. Definitions of degrees of burglary vary among states.

say a man knocks on a victim's door dressed in a utility company's uniform. He tells the victim there has been a gas leak in the neighborhood and convinces the victim he needs to inspect their furnace. The person lets him in. As he wanders through the house pretending to inspect it, he steals things. That qualifies as trespassing because he gained entry under false pretenses.

First Degree Burglary

Most jurisdictions have three burglary statutes. They may be called **first degree burglary**, **second degree burglary**, and **breaking and entering**.

Some identify the crimes as three degrees of burglary, while others use the term *aggravated burglary* for the most serious offenses. Regardless of what they are called, the most serious offenses involve situations in which a resident is in the most danger. Almost all first degree burglary charges require that the structure is someone's home and that a person is likely to be present. This is because there is a higher probability that someone could be injured during the burglary if residents are present. Some states distinguish between daytime and nighttime burglary. Nighttime burglary is considered the most serious, since most homeowners are likely to be home at night and less likely to be home during the day. Interestingly, this difference is being used less often as it becomes more typical for people to work all hours of the day and from their homes, and there are increasingly fewer standard hours that people are likely to be at home.



Concept Check: It is 2:00 a.m. and the Applegate family is sleeping soundly. Marcel pries open their patio door and quietly sneaks through the house. He goes to the master bedroom and is rummaging through a jewelry box when Mr. Applegate wakes up and sees him. Marcel tells him to shut up and just lie there. Marcel grabs a diamond bracelet and runs out the front door. What crime do you think has been committed?

Answer: This is a classic first degree burglary because Marcel has broken in to commit a crime when the homeowner was present. Some states require that the offender issue a threat, but historically that has not been necessary.

Burglary has always been associated with breaking into structures to steal property. However, most states also include the intent to commit a felony or a theft as part of the elements of a burglary statute. As a result, an offender who breaks into a person's home to commit rape or another serious assault is also guilty of first degree burglary.

Interestingly, in some states, a home invasion in which the offenders trespass into a home, threaten the inhabitants, and steal their property meets the elements of *either* robbery or burglary. The offender is charged with whichever carries the most severe penalty. If both charges carry the exact same punishments, then either would be appropriate.

Second Degree Burglary

The standard elements for second degree burglary include trespassing to commit a crime in a home under circumstances in which no one is likely to be present. The lesser charge stems from the reasoning that burglarizing an empty home poses less danger to people. For example, the charge would be second degree burglary if a burglar breaks into a home while the owners are away on vacation.



Consider This: Was This a Burglary? If So, What Degree?

Clinton has been watching the Willoughby's house for a couple of weeks. He has observed that the entire family leaves the house every morning before 8:00 a.m. Both of the Willoughby children catch a bus to school, and Mr. and Mrs. Willoughby leave a few minutes later in separate cars and are consistently dressed in business attire. Clinton has watched the block enough times to guess that the Willoughby's neighbors are gone around the same time as well. He also knows that the Willoughbys put their dog in the backyard during the day.

One morning Clinton parks down the street and waits until everyone leaves. Clinton then pulls his van into the driveway and walks to the front door holding a clipboard. He knocks on the door, thinking that if anyone answers he will just ask if the roof needs repairing. As he predicted, however, no one answers, so Clinton puts on his gloves, takes his tool kit out of his pocket, and jimmy open the door. He then carries the Willoughby's brand-new HDTV out the front door and slides it into the back of his van. He goes back and finds some valuable jewelry and even Mr. Willoughby's pistol, which is hidden in the bedroom closet. Within 10 minutes Clinton heads down the street with his bounty.

The statutes in the Willoughby's jurisdiction that apply to burglaries include:

- Burglary in the first degree: No person shall trespass in an occupied structure with the purpose of committing a criminal offense while another person is present in the structure.
- Burglary in the second degree: No person shall trespass in an occupied structure with the purpose of committing a criminal offense.

What crime do you think Clinton has committed?

Burglary charges are also applicable to temporary dwellings, such as hotel rooms, motor homes, or tents. A structure or vehicle meets the criteria of being an occupied structure if a human being is inhabiting it, either permanently or temporarily. If a homeless man used a cardboard box for shelter, then the box qualifies as his dwelling. If someone entered that box and stole the man's blankets, they would be committing burglary. On the other hand, if the homeless man had abandoned the box with no intention of returning, then it would be considered simply a cardboard box. As you will discover in the later sections on search and seizure law, the U.S. Constitution protects the cardboard box "home" from illegal search in the same manner as it does a traditional brick-and-mortar house. The burglary laws apply to hotel rooms or other rented rooms in the same way. Breaking into a person's

hotel room is a burglary. If a motor home or camper is being used as a temporary dwelling, then it is treated just like any other home. It is not a dwelling or temporary structure, however, if it is being used as a vehicle or sitting in storage.

Breaking and Entering

The classic business burglary is usually identified as breaking and entering. An offender typically breaks into a closed business in order to steal property. The target structure could be any building that is neither occupied nor someone's home. It could be a warehouse, a closed liquor store, or a barn. Breaking and entering is one of the most common crimes in the United States, though such offenses are generally low-level felonies in terms of punishment. A breaking and entering statute might read: *No person shall trespass by force, stealth, or deception in an unoccupied structure for the purpose of committing a theft or any other criminal offense.*



Andreas Schlegel/fstop/Corbis

Breaking and entering is the unlawful entry into a business, as opposed to a private home.



Concept Check: Pierre's Department Store is closed for the night. At 3:00 a.m., Lucy and Audrey pull out an air-conditioning unit in the back and crawl through the hole. They fill a garbage bag full of the latest trendy shoes. What crime have they committed?

Answer: Lucy and Audrey have committed the crime of breaking and entering.

Trespass

A sample trespass statute might read: *No person, without privilege to do so, shall enter or remain on the land or premises of another.* Almost all forms of trespassing are classified as misdemeanors, and there are many ways in which to commit this crime. Certainly, the classic situation is when someone goes onto someone else's land without permission or authority. A teenager who sneaks into his or her neighbor's hot tub without permission would be trespassing. So would someone who hunts on a farmer's land without his or her permission or someone who wanders through a closed construction site. However, trespassing can be committed by other methods, too. For example, although a public university may be considered public property, that does not mean just anyone can walk around on campus. Only students, staff, or authorized visitors are allowed. If someone does not fit these criteria, the person is trespassing. A person is also trespassing if he or she remains on the premises after permission to be there has been withdrawn. For example, you are

allowed to shop at a department store, but you must leave after it closes. Your permission to enter is withdrawn by the management. Failure to leave at that point would be trespassing. Similarly, trespassing can include entering forbidden areas of otherwise open places. For example, just because you are invited to shop at the grocery store, does not mean you are allowed to walk past the Employees Only signs and check out the storage rooms.

People are not trespassing if they have a privilege to be on the property of another. What does *privilege* mean? People have privilege if they have a right to be there because of their status, right, position, or authority. For example, police have the privilege to enter the land of another if they are pursuing a legal duty, such as executing a warrant or answering a call. A butcher who works at the grocery store has the privilege of going beyond the doors marked Employees Only, but a customer would not. A landlord might have the privilege to enter an apartment because the lease grants him or her the right to conduct a termite inspection. That same landlord would not have the privilege to just wander in at any time, however.

5.3 Theft/Larceny Offenses

Theft and larceny are synonymous. Both can be defined by one simple word: *stealing*. Less simple is the variety of ways in which people steal from each other. From the kid who shoves a pack of bubble gum in his or her pocket in the checkout line to the international computer hacker who steals money from bank accounts, there are thousands of ways to steal. Criminals steal by picking pockets, shoplifting, embezzlement, deception, stealth, trick, blackmail, mail fraud, credit card fraud, and a multitude of other methods. Law enforcement, prosecutors, and legislators constantly work to thwart the relentless efforts of thieves.

Theft

Every state has a broad statute that captures the basic elements of theft. While states have also adopted statutes that address specific methods of theft, the simple crime of theft usually enables prosecution.

The typical state theft statute might read as follows: *No person, without privilege to do so, shall knowingly deprive another of their property.* The mental culpable state is *knowingly*, and the action involved is *depriving another of their property*. While the language may cover a broad spectrum of stealing, theft statutes also provide for a variety of punishments that take into account the status of the offender and victim, the value of the property taken, the nature of the items taken, and the method used.

Status of the offender: Many states elevate the penalty classification if the offender has a previous theft conviction. For example, shoplifting an item might be a first degree misdemeanor. However, if the shoplifter has a previous conviction for theft, then the punishment for the new crime would be elevated to a felony. Some jurisdictions set higher penalties for offenders who abuse a public office or a position of trust to commit their offense. A trustee who steals money from a trust fund might face a more severe penalty.

Status of the victim: It is not uncommon for a state to provide more severe penalties when a theft victim is disabled or elderly. Con and scam artists often prey upon such people, and state legislatures have enacted laws designed to protect these particularly at-risk victims.

Value of the property: Penalties are elevated according to the value of the property stolen. For example, a state might render theft a misdemeanor if the value of the stolen property was less than \$500. However, if the property's value was more than \$500, the crime would increase to a fifth degree felony. As the value rises, so does the penalty. This is the most common manner in which theft penalties are addressed.



Fancy Collection/SuperStock

Car theft, sometimes known as grand theft auto, has declined around the nation in recent years.

the value or nature of the items taken. For example, theft of property valued at less than \$500 might be considered a petty theft, but if the property's value exceeded that amount, the crime would be called grand theft. *Grand theft auto* is a common term for stealing a motor vehicle.

Credit Card Fraud

The development of the credit card industry instantly created another type of theft: credit card fraud. Thieves have discovered numerous ways in which to use credit cards to steal. States have adopted laws that specifically deal with these crimes and classify them as theft.

False Pretense to Acquire a Credit Card

People everywhere are seemingly inundated with credit card offers. Vendors set up tables on college campuses and give away coffee mugs and T-shirts to entice students to sign up for their cards. Telemarketers call during dinnertime to convince people they need an additional credit card. Never-ending offers seem to spill out of overflowing mailboxes. Despite the enormous push to get people to apply for a credit card, however, people must provide truthful information when they do. If someone lies about his or her job or income

Nature of the property: The punishment might be more severe if the property is a firearm, motor vehicle, government document, negotiable instrument such as a check or stock certificate, or a certain controlled substance. For example, a person who obtains gas at a self-service pump and then drives away without paying may have his or her license suspended in addition to the other penalties for theft.

Many jurisdictions use the labels *petty larceny* and *grand larceny*. Those terms are also defined by

on the application and the card company issues credit based on that information, the applicant has committed a crime. A sample statute regarding false pretense to acquire a credit card might read: *No person shall knowingly provide false information on an application to obtain a credit card account.*

Using a Stolen Card or Card Account

Using stolen credit cards, debit cards, or account information is the most common method of fraud. Many of the people reading this text who have credit cards have likely been victims of this crime. Consider the number of people who have the opportunity to see your credit card number. If you use a credit card to pay for a meal at a restaurant, you hand it to the server, who disappears. It is very easy to copy the card information and then use it fraudulently. While we like to think it is safe to purchase something online or at a well-known department store, the vast prevalence of credit card fraud tells us it is often not. You can now order almost anything online if you have a name, number, and the security code on the back of the credit card.

Providing False Information to a Credit Card Company

Merchants who accept credit cards provide documentation of their transactions to the credit card company. The credit card company then pays the appropriate amount to the merchant. It is a crime for the merchant to provide false information in an effort to defraud the card company. A common criminal practice is for a clerk to alter the transaction documentation and then take the same amount of cash from the register. A sample statute on this issue might read: *No person shall provide false information to the issuer of a credit card that property or services have been furnished knowing that the information is false.*



Consider This: Credit Card Fraud

A family stays overnight at a nice hotel in Lexington, Kentucky. When they check out the next morning, a pleasant young woman handles the transaction. The bill is approximately \$80, and they pay with a credit card. However, when they receive their credit card bill, they discover they were charged \$280 for their stay. As it turns out, the “pleasant young woman” who handled the checkout quit her job later that day. She spent her last day at work making a little extra cash. In this case she rang up \$80 on the cash register, issued a credit card receipt for \$80, but then added a number 2 before she placed it into the hotel’s register. She then took \$200 in cash from the register, which she stuck in her own pocket. The hotel showed a credit card transaction of \$280, which they forwarded to the credit card company for reimbursement.

Is this credit card fraud? Why or why not?



ANDY CLARK/Reuters/Corbis

The machinery needed to produce counterfeit credit cards, shown here, is not overly complicated. This is one reason for the increase in credit card and identity theft.

Receiving Stolen Property

A sample statute regarding receiving stolen property might read: *No person shall receive, possess, retain, or dispose of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.* Even if a person did not steal property, it is against the law to possess property or get rid of it if it is known to be stolen. The most commonly contested issue in receiving stolen property cases is determining whether the defendant reasonably knew the property was stolen. Defendants often claim to be unaware the property was stolen, so a judge or jury will examine the facts and make a commonsense decision as to whether a reasonable person would have known the property was stolen. The factors considered include an item's price, the circumstances in which it was obtained, its packaging, and prior knowledge of the defendant.



Consider This: Would It Be Reasonable to Believe These Items Were Stolen?

Julian is walking downtown one afternoon. A man pulls up in an old car. He asks Julian if he wants to buy a 50-inch plasma television. Julian says, "Maybe, what's the deal?" The man opens the trunk of his car and shows Julian a new plasma television in the box from the store. He offers to sell it for \$50. Should Julian reasonably suspect this is stolen property?

Kelvin's friend Tony asks if he can keep a motorcycle in Kelvin's garage for a couple of months. Kelvin agrees. Tony, who has no job or money, brings over a brand-new 2012 Harley-Davidson Softail worth about \$25,000. When Kelvin asks him where he got it, Tony tells him not to worry about it. Should Kelvin reasonably suspect this is stolen property?

Phillip buys a used exercise bike from a man on Craigslist. Phillip picks it up from the seller's house and pays him \$200. The seller gives him the instruction manual, too. Phillip researched the bike on the Internet, and the price seems consistent with the market selling price. As it turns out, the bike was stolen. Is Phillip guilty of receiving stolen property?

Theft of Intangible Property

Historically, theft and larceny statutes were reserved for taking someone else's **tangible property**, meaning physical objects. But with technological advances, thieves began to steal *intangible* items, such as information or services. One of the earliest such issues lawmakers needed to address was the theft of cable television services. If someone rigs a cable box to get premium channels for which he or she is not paying, prosecutors lack a physical item to tag as evidence and place before the court. Despite this, stealing cable is still stealing. The cable company sells intangible property via airwaves, satellites, and cables. The service has a value, and it is unlawful to use it without paying for it. The same concept applies to some computer downloads, intellectual property, and corporate secrets. The federal government has cracked down on the illegal download or copying of music and video products. There are even prosecutions of people who steal Wi-Fi services.

Passing Bad Checks

Although technological advancements have helped reduce the instances of bad check crimes, these remain one of the most prolific methods of stealing. The elements are simple. A sample statute might read: *No person, with the intent to defraud, shall write, pass, or utter a negotiable instrument knowing that it will be dishonored.*

The crime of passing a bad check most often occurs when the offender gives another person a check and it bounces. That means that when the recipient presents the check to the bank either to deposit or cash, there are not sufficient funds to cover the amount. It is criminal to write a check for an amount that does not exist in a bank account. Most states determine the penalty classification by the value of the check. A debit card is considered a check for the purposes of this type of crime. Fraudulently using a debit card for payment meets the elements of this crime.

The most common defense to being charged with passing bad checks is to claim that one did not know the check would bounce. Known as the defense of mistake, this is a good defense so long as the offender paid the money upon being notified that the check was not covered. If the person fails to do so, however, one may presume he or she knew it was a bad check when he or she delivered it.



Concept Check: Henrietta buys a table from Lana at her Saturday morning garage sale. She pays for it by writing a check out to Lana for \$34. On Monday morning Lana deposits the check in her bank only to discover that it bounces: Henrietta did not have enough money in her account to cover the check. As it turns out, Henrietta was paid on Friday and forgot to go to the bank and deposit her paycheck. She remembered over the weekend but did not get to the bank before Lana cashed the check. Is Henrietta guilty of passing a bad check?

Answer: Henrietta is not guilty of passing a bad check because she did not have the intent to defraud when she wrote it.

Identity Theft

Legislators and law enforcement face many challenges in trying to protect people's personal information. Identity thieves steal information such as names, Social Security numbers, and financial access codes and use it to fraudulently obtain other property or services and even to acquire loans. The Federal Trade Commission lists the following methods of identity theft:

- **Dumpster Diving.** When a thief rummages through trash looking for bills or other paper with personal information on it.
- **Skimming.** When a thief steals credit or debit card numbers by using a special storage device when processing the card.

- **Phishing.** When a thief pretends to be a financial institution or company and sends spam or pop-up messages to get someone to reveal his or her personal information.
- **Changing Your Address.** When a thief diverts billing statements to another location by completing a change of address form.
- **Old-Fashioned Stealing.** When a thief steals wallets and purses; mail, including bank and credit card statements; preapproved credit offers; and new checks or tax information. They may also steal personnel records or bribe employees who have access to them.
- **Pretexting.** When a thief uses false pretenses to obtain personal information from financial institutions, telephone companies, and other sources.

Identity thieves may use such information to open new credit card accounts in the victim's name or use the victim's account to purchase goods fraudulently. They may apply for a job, rent a house, or even get medical services by using the victim's Social Security number and other identifying information. By fraudulently using the identity of the victim, thieves may obtain government services, steal from ATMs, or issue counterfeit checks in the victim's name. All of these actions may result in financial loss and damage to the victim.

Is a Taking Required?

Most theft statutes now use the phrase "deprive another of their property" instead of the traditional concept of "taking." Why? Thefts sometime occur even though the property was initially intentionally given to a criminal. For example, a person deprives an owner of property if the person rents a car for 3 days and fails to return it within the required time. Just because the rental company gives out the keys, a person may not keep the car forever. Similarly, if someone borrows a neighbor's lawn mower and refuses to give it back, that is theft.

False Pretenses

Many thefts are committed by misrepresentation or false pretenses. Thefts committed by **false pretenses** occur when an offender uses false information to entice a victim into passing title to property to the offender. The victim conveys his or her property based on the fraudulent misrepresentations made by the thief. Thieves con or scam a victim into giving them money or property by lying to the victim about the facts. These thieves often prey upon the elderly and disabled. They also take advantage of the goodwill of others.



Consider This: Was This Theft by False Pretenses?

After a tornado destroys a midwestern town, June and Josie create a fake charitable organization. They call it the Tornado Victim's Fund and begin phone solicitations. They ask people to donate money, which they say will be used to assist the tornado victims. But instead, June and Josie pocket the money. There is no charity, and no money goes to disaster relief. The victims contributed to the charity because they believed the money was going to a good cause.

Embezzlement

Embezzlement occurs when a person uses a position of trust to convert another's property or money for his or her own use. A person who handles money for an employer but uses his or her position to steal the employer's or a client's money commits embezzlement. The funds have been placed in the person's care but instead of appropriately managing the money, he or she steals it. A lawyer or a financial manager who handles a client's money but uses it for his or her own purposes is also an embezzler. The crime also addresses employees who submit false business expenses for reimbursement.



Consider This: The Expense Account Scam

Dr. Scotto, a university professor, travels to Las Vegas to attend a conference regarding online teaching. Upon her return to the university, she submits her expenses. After the university pays her, the treasurer becomes suspicious and conducts an investigation. As it turns out, Scotto had submitted receipts for taxi trips from her hotel to the conference venue. Each trip cost \$5.50, but Scotto altered the receipts to indicate \$15.50. She also submitted a receipt for training books that she had supposedly purchased in the amount of \$348.00. However, she had not purchased any training books: That was her bar bill at the Gougemall Casino.

Forgery

It is forgery to write, alter, or produce a document or item and falsely claim it to be genuine.

Forgery, when done with the intent to defraud, is criminal. A sample forgery statute might read: *No person shall, with purpose to defraud, and without privilege to do so, forge any writing of another.* The most common forms of forgeries are signatures on documents such as checks and applications for funds and licenses. Many forgeries involve document alteration.

It is criminal to change the amount of money specified on a check, alter the number of pills on a drug prescription, or switch the terms or dates in a contract. Doing so with the intent to defraud constitutes a criminal forgery. It is also forgery to create a work of art or an artifact and claim it is an original. For example, it is forgery for someone to build a rocking chair that is a replica of a valuable antique and then attempt to sell it as the original. There have certainly been instances of criminals forging the signature of an artist on a reproduced painting.



ASSOCIATED PRESS

Can you tell which one is fake? The quarter on the left is forged and was part of a 1997 Wisconsin bank investigation that uncovered at least 11 kinds of forged quarters.

Most forgery statutes also make uttering a forged document a crime. **Uttering** means knowingly passing or using a forged document. If one person forged a signature on a check and another person, knowing it was forged, attempted to cash it, the second person is guilty of uttering a forgery.

Forgeries are not criminal if they lack the intent to cheat someone out of money. For example, a teenager may, with permission, use her mother's credit card to buy clothes at the mall. Signing her mother's name on the credit card receipt is not criminal because the transaction was made with her mother's permission and there was no intent to defraud anyone. Similarly, it is common for husbands and wives to sign each other's name on documents. As long as it is done with permission and without intent to defraud, the act is not criminal.

Insurance Fraud

Many people mistakenly think that if an insurance company pays for something, no one loses money. While the insurance industry may have few fans, stealing from or defrauding an insurance company is still unlawful. Criminals fraudulently steal money from insurance companies in a number of ways. For example, consider that an insured homeowner who is the victim of a burglary may have a right to be reimbursed for the loss. However, a homeowner commits insurance fraud should they submit false information to the insurance company and get reimbursed based on misinformation. False claims cost the insurance industry millions of dollars each year. These losses negatively affect the business and result in increased premiums for customers.

Falsification

Submitting false information to obtain government services such as unemployment, welfare, aid for dependent children, or any other public financial benefit constitutes the crime of falsification. People also commit this type of crime if they provide false information to obtain driver's licenses, licenses for firearms, or other licensing regulated by the government.

Extortion

Extortion is also referred to as blackmail. It involves the effort to obtain money or some other valuable item from a person by threatening to expose the person to embarrassment and ridicule. A sample extortion statute might read, *No person, with the purpose of obtaining a valuable benefit, shall threaten to expose another to ridicule or to damage their reputation.*



Concept Check: Kevin works the night shift at a local convenience store. He notices that Kelli parks her car on the side of the building every Tuesday night around 6:45 p.m. Shortly afterward, a man pulls up beside her. She gets out of her car and into his, and they drive away. Just like clockwork, they return around 9:00 p.m. She gets back into her car, and they both drive away. One Tuesday evening Kevin snoops around her car after she parks it. He can see an envelope inside with her name and address. He uses the Internet to look up her phone number. A couple of days later, Kevin calls Kelli and says, “Hi Kelli. You don’t know me but I sure know you. And I know what you do every Tuesday and who you do it with. And I know that you don’t want your husband to find out that you are having an affair. All you have to do is give me \$5,000 and I will walk away and you will never hear from me again.” Does this meet the legal definition of extortion?

Answer: Yes, this is extortion. Kevin threatened to expose her affair and damage her reputation unless she gave him money. It does not matter whether she was actually having an affair. All that matters is he demanded money and threatened to expose her if she did not come through.

In 2010 Karen Sypher was convicted of multiple counts of federal extortion. Rick Pitino, the basketball coach at the University of Louisville, had engaged in sexual intercourse with Sypher at a Louisville, Kentucky, restaurant several years earlier. Afterward, Sypher threatened to disclose their sexual encounter unless Pitino gave her money. Pitino ultimately contacted the FBI, who investigated Sypher and arrested her for extortion (Schilken, 2010). In a different case, in 2009 late night television host David Letterman was also the victim of an extortionist. Former CBS News producer Robert “Joe” Halderman attempted to extort \$2 million from Letterman. Halderman threatened to disclose Letterman’s sexual affairs with one of the *Late Show’s* staffers. Letterman contacted law enforcement and also publicly disclosed his affairs on his show (Whyte, 2010).

5.4 Property Damage Crimes

Intentionally damaging another’s property is a criminal act. Crimes such as arson, vandalism, and disruption of public services all involve conduct that is designed to harm or inconvenience another’s property. While some such behaviors constitute little more than a prank, many cost homeowners, businesses, and taxpayers millions of dollars each year.

Arson

The most serious property damage offense is **arson**. The element that makes arson distinct from other property damage crimes is the means by which it is committed. A unique element of arson is that damage to property is caused by either fire or explosion. Generally states have two levels of arson. The most serious involves fires that could either cause damage to someone’s home or risk seriously harming people. Intentionally setting fire to a person’s home, regardless of the extent of the resulting damage, is considered the

highest level of arson. States typically use names such as *aggravated arson* or *first degree arson* for these high-level offenses. The lesser-grade arsons involve fires that damage unoccupied buildings, personal property, and land, so long as there is minimal risk of serious personal harm. Even if the building is unoccupied, however, an arson may still pose a risk to people: The law considers emergency personnel such as firefighters and police to be in the zone of danger when they respond to the situation. If an arsonist sets fire to an abandoned factory that housed dangerous chemicals, then there is a substantial risk that responding fire personnel can be harmed. Lower-level arsons would include setting fire to a dumpster, a motor vehicle, or a vacant building.

Tragically, arson crimes often result in serious injuries to people. If an arsonist sets fire to a building and a firefighter dies fighting the blaze, the suspect would be charged with both the arson and involuntary manslaughter. The arsonist could be charged with a first degree murder if he or she set fire to a building knowing that a human being was inside.



Concept Check: Is it a crime to set fire to your own property?

Answer: If you burned your own property in order to submit a claim for insurance, you could be charged with both arson and insurance fraud.

Vandalism and Criminal Damaging

Vandalism is the act of intentionally damaging someone else's property. Many people consider it to be a petty crime, but many acts of vandalism have very serious or expensive consequences. Thus, most states have enacted felony vandalism statutes. Felony vandalism crimes include elements such as serious damage to property and damage to specific items, such as work tools. It is also common for states to enact lesser punitive laws such as criminal damaging, which address less serious property damage. For example, breaking all of the windows out of a home would meet the elements of vandalism, but soaping all of a home's windows would warrant the less serious criminal damaging charge.



imagebroker.net/SuperStock

In some situations vandalism might be punished as a felony, as opposed to a petty crime.



Consider This: A Football Player Crosses the Line

Darrin's football coach tells him he is suspended from the team for being late to practice. Darrin wants revenge, so he looks through his dad's garage until he finds an herbicide that is designed to kill grass and weeds instantly. He fills a chemical sprayer and heads to the football field. Using the sprayer, he carefully writes his revenge with the weed killer. By the time of the Friday night game, fans in the stands can easily read "Coach Johnson sucks" on the 50 yard line. The school must spend several thousand dollars digging up the tainted grass and installing new sod. What crime(s) has the suspect committed?

Vandalism is committed in many different ways. **Tagging** (spray painting buildings and walls), breaking windows, keying cars, putting glue into locks, slashing tires, or even intentionally leaving someone's water faucets running are all acts of vandalism.

Valuation of Property Damage

In some cases a court may use the value of a loss to distinguish between a felony act of vandalism and a misdemeanor act of criminal damaging. Accurately assessing the cost of the property or the repair expense would be an issue before the court. If the property damaged was an antique piece of furniture, lawyers might use appraisers to provide evidence of the value. There could also be a dispute over whether a repair cost was reasonable.



Richard Levine/age fotostock/SuperStock

The decrease in property value, the possible related costs of gang crime, and the cost to repaint buildings all contribute to the property damage caused by tagging and graffiti.

Criminal Mischief

Pranks that cause inconvenience rather than property damage usually fall under criminal mischief laws. Tossing toilet paper into someone's trees or sticking plastic forks into their lawn would be included in this category.

Disrupting Public Services

A person who intentionally acts to maliciously impact government services may be charged with the more serious offense of disrupting public service. A typical statute might read as follows: *No person shall knowingly impair public communication services, public transportation, air or marine navigation, public utility service or police, fire, or other public emergency services.*

Many such statutes will include very specific language to address a broad spectrum of public services. The crux of the crime is that the perpetrator engages in an action that interrupts, damages, or impairs any of these critical operations. A key element in these cases is the offender's intent. Accidentally causing impairment does not meet the elements of knowingly disrupting public services. For example, a motorist who inadvertently runs over a fire hose while gawking at a fire scene is not guilty of disrupting public services because the act, although negligent, is not knowingly committed. On the other hand, a person who sees the fire department fighting a fire and intentionally cuts the fire hoses meets the elements of this crime. Some jurisdictions also have very specific crimes to address endangering aircraft or railroad operations.



Career Spotlight: Criminologist

by Erik Fritsvold

"We need your help" (Petersilia, 2008, p. 338). This phrase was the crux of a February 2004 phone call to renowned criminologist Dr. Joan Petersilia. On the other end of the line was Kevin Carruth. Carruth had recently been appointed undersecretary of the California Youth and Adult Correctional Agency by newly elected governor Arnold Schwarzenegger. The governor was assembling a team to reform the overburdened California correctional system (Petersilia, 2008).

At this time, the California prison system was in a state of crisis. It was one of the most expensive systems in the United States. Simultaneously, overcrowding, lack of rehabilitation programming, high recidivism rates, and violence were substantial problems.

By 2003 massive overcrowding had become endemic to the system, and adult prisons were operating at roughly 200% of their design capacity. It was the most crowded system in the nation. Inmates were sleeping in gyms, TV lounges, and hallways. Double- and triple-celling had become the norm, gang violence had increased, and long lockdowns had become a way of life at many of the state's 33 prisons (as cited in Petersilia, 2008).

Petersilia worked directly with the governor and high-level political figures to advocate for a series of policy reforms. Her foci included increasing the availability of rehabilitation programming for inmates, changing parole supervision strategies, and increasing support for prisoners when they reenter society. Petersilia's role in California politics was largely unprecedented and demonstrates the ability of criminologists and social scientists to impact public policy.

Criminologists are experts who use the scientific method to study crime and attendant social problems. Most often criminologists conduct research and teach undergraduate and/or graduate students for a college or university. However, criminologists may also work for research institutes, the government, or private consulting firms.

Education is essential for this profession. While some criminologists have earned a master's degree, the majority have earned a PhD in the field. Academic training for this profession (*continued*)



ASSOCIATED PRESS

Criminologists employ a variety of technologies, sociological theories, and approaches to study the science of crime.

Career Spotlight: Criminologist (continued)

focuses on the empirical and theoretical study of crime. In addition, criminologists should be well trained in statistical analysis and research methodology so they are able to apply the scientific method to the crime problem. Criminologists must have well-honed reading, writing, and critical-thinking skills. Moreover, the ability to analyze information and communicate its complexities clearly and effectively is essential.

Extrapolating from U.S. Department of Labor data, in 2010 criminologists likely earned an average annual salary of approximately \$70,000. The broad field of postsecondary education employed approximately 1.7 million people nationwide and is expected to grow 17% in the coming decade. This robust field is driven by a steady increase of individuals seeking a college degree in an increasingly competitive economic environment (U.S. Department of Labor, 2012).

Reflecting on her experiences working in government, Petersilia reiterates that criminologists are a limited but important piece in the policy-making process:

I learned that I could change many aspects of the largest correctional system in the world. . . . It was not easy or straightforward, and it was totally exhausting and often personally distressing, but it was do-able and definitely worth doing. I am certainly not unique, and I believe other criminologists can make similar contributions, and I encourage them to do so. We have vital contributions to make, and key decision makers are often eager for our input. (Petersilia, 2008, p. 353)

References

- California Expert Panel on Adult Offender Recidivism Reduction Programming (2007). *A roadmap for effective offender programming in California: Report to the California state legislature*. Sacramento, CA: California Department of Corrections and Rehabilitation.
- Petersilia, J. (2008). An embedded criminologist reflects on California prison reform. *Journal of Experimental Criminology*, 4, 335–356.
- U.S. Department of Labor, Bureau of Labor Statistics. (2012). *Occupational outlook handbook, 2012–13 edition: Life, physical and social science, sociologist*. Retrieved from <http://www.bls.gov/ooh/life-physical-and-social-science/sociologists.htm#tab-4>
- U.S. Department of Labor, Bureau of Labor Statistics. (2012). *Occupational outlook handbook, 2012–13 edition: Education, training and library, postsecondary teachers*. Retrieved from <http://www.bls.gov/ooh/education-training-and-library/post-secondary-teachers.htm>

5.5 Chapter Highlights

- Robbery crimes involve force or the threat of force to take property from another. The offenses range from armed robbery, which is committed with a weapon, to strong-armed robbery, where a victim is threatened with harm.
- Burglary offenses typically include first and second degree burglary and breaking and entering. First degree burglary, which carries the most severe penalties, usually involves trespassing into a structure or home when someone is present. Burglary in the second degree is charged when no one is present. Trespassing into a closed business to commit a theft is typically addressed as breaking and entering.
- There are a variety of crimes that address unlawfully taking another person's property. These include theft, credit card fraud, forgery, and receiving stolen property.
- Extortion, also known as blackmail, involves stealing another person's money by threatening to damage his or her reputation.
- Property damage crimes include vandalism, criminal damaging, disrupting public services, and arson.
- The criminal act of intentionally damaging property by fire or explosion is arson. The highest-level arson offenses involve fires that cause damage to a person's home or risk seriously harming people.

Review Questions

Read the following scenarios and identify which crime has been committed.

1. Monique hates her ex-boyfriend, Ken, who left her for another woman. Monique takes a screwdriver and scratches "Ken is a cheater" into the hood of his brand-new truck.
 - a. arson
 - b. vandalism
 - c. extortion
 - d. criminal trespassing
2. Monique knows her ex-boyfriend took his new girlfriend to the beach for the weekend. While they are away, Monique sets fire to his house.
 - a. arson
 - b. vandalism
 - c. extortion
 - d. criminal trespassing
3. Jackson sees Professor Rickly leaving campus. Just as the professor reaches his car, Jackson grabs him from behind, places a large knife to his throat, and demands his wallet and cell phone.
 - a. burglary
 - b. extortion
 - c. armed robbery
 - d. robbery

4. In the middle of the night, Renee breaks the bay window out of the Summerhaul Tire Store. She goes inside and steals four new Goodyear tires.
 - a. first degree burglary
 - b. second degree burglary
 - c. breaking and entering
 - d. robbery

5. Delrae shops at Macy's department store late one evening. Just before the store closes, he grabs a crystal vase and places it under his coat. He walks out with it without paying for it.
 - a. theft
 - b. robbery
 - c. burglary
 - d. extortion

Key Terms

arson Damaging property by means of fire or explosion.

breaking and entering Trespassing into an unoccupied structure with the purpose of committing a crime.

burglary Trespassing into a building, home, or structure of another with the purpose of committing a crime.

carjacking Taking another person's motor vehicle by force or threat of force.

false pretenses Thefts that occur when an offender uses false information to entice a victim into passing title to property to the offender. The victim conveys his or her property based on the fraudulent misrepresentations made by the thief.

first degree burglary The most serious of the burglary offenses, first degree burglary describes trespassing in an occupied structure with the intent to commit a crime. Most states require that someone be present inside the structure.

forgery Writing, altering, or producing a document or item and falsely claiming it to be genuine. Forgery is criminal if done with the intent to defraud someone.

larceny/theft The unlawful taking of another's property.

Ponzi scheme An investment fraud in which investors' money is used to unlawfully pay other investors, which results in a collapse of the scheme. It is named after Charles Ponzi, a Boston entrepreneur who ran such a scheme in the 1920s.

second degree burglary Trespassing in an occupied structure with the purpose of committing a crime when another person is not present in the structure.

tagging An act of vandalism in which the offender paints graffiti on another's property.

tangible property Property that has physical properties allowing it to be touched. Buildings, hardware, tables, and socks are all tangible items. Cable television service, property rights, or computer passwords are intangible.

theft See *larceny/theft*

trespassing Entering or remaining on the land or premises of another without privilege, permission, or authority.

uttering Knowingly passing or using a forged document.

vandalism The intentional damage of another's property.

Correct Answers to Review Questions:

1. b

2. a

3. c

4. c

5. a

