Criminal Overview

Texas Association of Counties

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Basic Formula

• Mens Rea + Actus Reus = Crime

• Mens Rea – Intent

• Actus Reus – Action

• Mens Rea is typically required, even if the Penal Code section does not state one.
Basic Formula (cont.)

• Exception: Strict liability crimes. Speeding is typically considered a strict liability crime. “I didn’t intend to speed” is not an excuse.

• Often, intent must be inferred from the circumstances. People do not often announce their criminal intentions.

• Circumstantial evidence is good evidence. “That’s just circumstantial evidence” is not a good objection.
Purposes of Punishment

- Deterrence
  - Specific
  - General

- Rehabilitation
  - Juvenile Justice

- Protection of Society
Purposes of Punishment (cont.)

• Retribution
Culpability Hierarchy

Intentionally
  |
Knowingly
  |
Recklessly
  |
Negligently
Intentionally – TPC § 6.03(a)

• (a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

• Example: A neighbor’s dog barks continually every night, disturbing everyone on the block. A person poisons the neighbor’s dog’s food, hoping to kill the dog.
• (b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

• Example: “A” pays “B” $100 to deliver a package to “C.” B suspects that package contains an illegal substance but does not open the package to inspect.
Recklessly - TPC § 6.03(c)

• (c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.
Recklessly - TPC § 6.03(c) (cont.)

• Example: “A” knows that “B” does not know how to drive a car but gives B the keys to A’s cars and asks B to go to the grocery store to purchase some items.
Negligently - TPC § 6.03(d)

- (d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.
Negligently - TPC § 6.03(d) (cont.)

• Example: A person traveling to New York City had planned to pack after work before leaving for the airport. The business meeting that the person was attending ran long, so little time to pack remained. The person grabbed a bag that contained some papers from work, without examining the bag’s contents. The person’s concealed handgun was in the bag, and the person was arrested for attempting to carry the gun through the airport security checkpoint.
Types of Crimes

• Felonies – Divided into 5 categories: capital felonies, felonies of the first degree, the second degree, the third degree, and state jail felonies. If the statute does not specify a category, the crime is a state jail felony.

• Misdemeanors – Divided into 3 categories: A, B, and C.
Capital Felonies

• Life imprisonment without parole or

• Death

• Life imprisonment if committed before 18 years of age
First Degree Felonies – TPC § 12.32

• (a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.

• (b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $10,000.
Second Degree Felonies – TPC § 12.33

• (a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years.

• (b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $10,000.
Third Degree Felonies – TPC § 12.34

• (a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

• (b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $10,000.
State Jail Felonies – TPC § 12.35

• (a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

• (b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed $10,000.

• If the offense included the use of a deadly weapon, the offense will be punished as a felony of the third degree.
Class A Misdemeanor – TPC § 12.21

• An individual adjudged guilty of a Class A misdemeanor shall be punished by:

  • (1) a fine not to exceed $4,000;
  
  • (2) confinement in jail for a term not to exceed one year; or
  
  • (3) both such fine and confinement.
Class B Misdemeanor – TPC § 12.22

• An individual adjudged guilty of a Class B misdemeanor shall be punished by:
  
  • (1) a fine not to exceed $2,000;
  
  • (2) confinement in jail for a term not to exceed 180 days; or
  
  • (3) both such fine and confinement.
Class C Misdemeanor – TPC § 12.23

• An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed $500.
Common Defenses

• Intoxication – TPC § 8.04(a): (a) Voluntary intoxication does not constitute a defense to the commission of crime.

• Involuntary intoxication may be a defense. Example: If a doctor did not warn a patient of the intoxicating effects of a medication, that would be a defense.
Duress – TPC § 8.05

• (a) It is an affirmative defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by threat of imminent death or serious bodily injury to himself or another.

• (b) In a prosecution for an offense that does not constitute a felony, it is an affirmative defense to prosecution that the actor engaged in the proscribed conduct because he was compelled to do so by force or threat of force.
• (c) Compulsion within the meaning of this section exists only if the force or threat of force would render a person of reasonable firmness incapable of resisting the pressure.

• (d) The defense provided by this section is unavailable if the actor intentionally, knowingly, or recklessly placed himself in a situation in which it was probable that he would be subjected to compulsion.
• (e) It is no defense that a person acted at the command or persuasion of his spouse, unless he acted under compulsion that would establish a defense under this section.

• A person acting under duress must surrender to authorities at the earliest safe opportunity.
Mistake of Fact – TPC § 8.02

(a) It is a defense to prosecution that the actor through mistake formed a reasonable belief about a matter of fact if his mistaken belief negated the kind of culpability required for commission of the offense.

(b) Although an actor's mistake of fact may constitute a defense to the offense charged, he may nevertheless be convicted of any lesser included offense of which he would be guilty if the fact were as he believed.
Self-Defense – TPC § 9.31

• [A] person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force.

• This defense is subject to many conditions and limitations.
Defense of Others - TPC § 9.33

• A person is justified in using force or deadly force against another to protect a third person if . . . he reasonably believes [the force] to be threatening the third person he seeks to protect; and . . . the actor reasonably believes that his intervention is immediately necessary to protect the third person.
Conduct is justified if:
(1) the actor reasonably believes the conduct is immediately necessary to avoid imminent harm;
(2) the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law proscribing the conduct; and
Necessity - TPC § 9.22 (cont.)

• (3) a legislative purpose to exclude the justification claimed for the conduct does not otherwise plainly appear.

• Example: A hiker in West Texas was caught in a severe sandstorm. The hiker recalled passing a small cabin earlier and retreated to it to seek shelter.
Disrupting Meeting or Procession
TPC § 42.05

• (a) A person commits an offense if, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

• (b) An offense under this section is a Class B misdemeanor.
Attack on Assistance Animal – TPC § 42.091

• (a) A person commits an offense if the person intentionally, knowingly, or recklessly attacks, injures, or kills an assistance animal.

• (b) A person commits an offense if the person intentionally, knowingly, or recklessly incites or permits an animal owned by or otherwise in the custody of the actor to attack, injure, or kill an assistance animal and, as a result of the person's conduct, the assistance animal is attacked, injured, or killed.
Attack on Assistance Animal – TPC § 42.091 (cont.)

• (c) An offense under this section is a:

• (1) Class A misdemeanor if the actor or an animal owned by or otherwise in the custody of the actor attacks an assistance animal;

• (2) state jail felony if the actor or an animal owned by or otherwise in the custody of the actor injures an assistance animal; or
• (3) felony of the third degree if the actor or an animal owned by or otherwise in the custody of the actor kills an assistance animal.

• (e) In this section:

• (1) “Assistance animal” has the meaning assigned by Section 121.002, Human Resources Code.

• (2) “Custody” has the meaning assigned by Section 42.09.
Questions??

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