

## **Criminal Law**

No act is a crime unless it is prohibited by law. Criminal offenses are prohibited acts as set forth in criminal statutes. Furthermore, every criminal act is divided into discrete parts called elements. The elements differ for each crime but in all cases, it is the government's burden to prove each element of the crime beyond a reasonable doubt before the defendant can be adjudged guilty. Once found guilty, an appropriate sentence can be imposed.

Crimes are also categorized by severity of the potential sentence. For example, imprisonment for felonies can exceed one year while imprisonment for misdemeanor is typically less than one year. There is another class of minor offenses known as "summary offenses."

The courts have identified three situations where the police interact with citizens. The first is a mere encounter and occurs when an officer merely encounters an individual and has no suspicion of a crime. The officer may ask the citizen a question but the citizen has no duty to respond and can simply walk away without consequence. The second circumstance is known as an "Investigative Detention" or "Terry Stop". This occurs when the officer has reasonable suspicion that a crime may have occurred or is about to occur. The officer can stop the suspect to investigate. This detention should be brief and also permits the officer to frisk the suspect if the officer believes there is a safety concern. A Miranda warning is not required at this point and while a suspect can choose not to cooperate, the officer is permitted to detain the suspect for a reasonable period of time to investigate. What is "reasonable" will depend on the circumstances. In certain situations, like a traffic stop, the suspect should provide his driver's license, owner's card and proof of insurance. The final encounter is when making an arrest. Here, the officer has probable cause to believe a crime has occurred and that the suspect is the one who committed it. In making an arrest, the officer is permitted to take the suspect into custody, by force if necessary.

If arrested, the defendant is provided certain rights. First, it should be remembered that the defendant is given the presumption of innocence until proven guilty. Second, upon arrest, a defendant is entitled to be informed his or her Miranda rights. That is, the right to remain silent and the right to speak to an attorney. If a suspect cannot afford an attorney, one will be appointed prior to any questioning. And remember, anything you say, can and will be used against you. Therefore, criminal defense lawyers will advise their clients to remain silent so that the defendant does not inadvertently provide the government with additional evidence.

Once a defendant enters the criminal justice system, his or her case will be processed according to an established procedure and in accordance with established timelines. While many defendants may not be aware of the specific procedures, a criminal defense attorney is trained to be familiar with these details and should be able to keep all improperly seized evidence out of the case. A criminal defense attorney is also valuable when considering a plea deal.

If you are charged with a crime or are suspected of a crime, you should consult with an attorney. At my law firm, we have experience in representing clients in criminal matters and can assist at pretrial, trial, and if necessary, on appeal.

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