



I'm not robot



Continue

Substantive criminal law examples

In order to continue enjoying our site, we ask that you confirm your identity as a human. Thank you very much for your cooperation. Trending Popular Contact us Asked by: Tiara Gerlach | Last update: February 19, 2022 Score: 4.2/5 (21 votes) Substantive criminal law specifically defines what constitutes certain crimes, as well as prescribed penalties when someone is convicted of those crimes. ... In short, substantive law refers to the actual laws that govern the people, and procedural law creates the mechanisms by which substantive law is enforced.



What is an example of substantive criminal law? Recall that the substantive law defines criminal acts that the legislature wishes to prohibit and specifies penalties for those that commit the prohibited acts. For example, murder is a substantive law because it prohibits the killing of another human being without justification. What is an example of substantive law? For example, substantive law dictates the kind of punishment that someone may receive upon being convicted at the conclusion of his criminal trial. ... For example, substantive law is used to decide whether a crime was a hate crime, whether a murder was committed in self-defense, and so on. What does substantive law mean in law? Law which governs the original rights and obligations of individuals. Substantive law may derive from the common law, statutes, or a constitution. For example, a claim to recover for breach of contract or negligence or fraud would be a common law substantive right. ... Substantive law is contrasted with procedural law. Why is criminal law substantive? As applied to criminal law, substantive law is that which declares what acts are crimes and prescribes the punishment for committing them, as distinguished from the procedural law which provides or regulates the steps by which one who commits a crime is to be punished. 40 related questions found Substantive criminal law is composed of the following elements: the definitions of the types of offenses that are held to be punishable; the classification of crimes (as, for example, felonies and misdemeanors in the United States, or crime, délit, and contravention in continental law); the principles and doctrines ... Procedural law is the set of rules by which courts in the United States decide the outcomes of all criminal, civil, and administrative cases. Substantive law describes how people are expected to behave according to accepted social norms. Substantive law refers to all categories of public and private law, including the law of contracts, real property, torts, and Criminal Law. Administrative law is the body of law that governs the administration and regulation of government agencies (both federal and state). Substantive law refers to how facts of each case are handled and how to penalize or ascertain damages in each case. Whereas, Procedural law refers to the different processes through which a case proceeds.

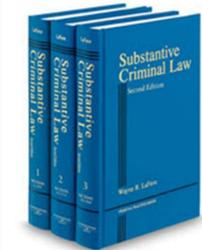
SUBSTANTIVE VS. PROCEDURAL	
Substantive Law	Procedural Law
<ul style="list-style-type: none">Substantive law is based on the definition (Statute) of the law brokenPart of both criminal cases and tort casesForcing the plaintiff or prosecution to meet their burdenSelf defense, immunity	<ul style="list-style-type: none">Procedural law is based on a persons legal rightsMiranda rights in a criminal caseServing a defendant court papers in a civil caseAllowing a defendant NOT to testify against their rights in court

... Procedural laws define the rules with which substantive laws may be enforced.

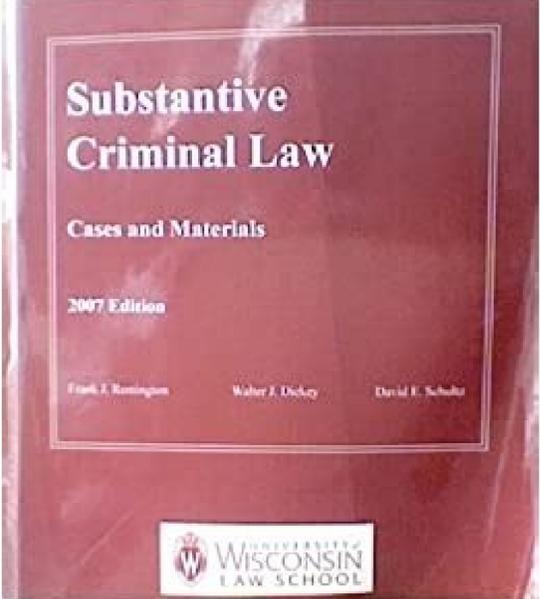


By Felix Romero

Substantive law refers to all categories of public and private law, including the law of contracts, real property, torts, and Criminal Law. For example, criminal law defines certain behavior as illegal and lists the elements the government must prove to convict a person of a crime. The law consists of three basic classifications of criminal offenses including infractions, misdemeanors, and felonies. Administrative law helps to expedite many legal issues in the United States. Examples include the EPA, the FDA, and the Department of Homeland Security.



The agencies covered under administrative law help to make decisions and determine rules in order to minimize the legal entanglement of the process. Administrative law is considered a branch of public law. ... Civil law countries often have specialized administrative courts that review these decisions. The federal administrative law system Administrative law offers accountability mechanisms that apply to government decision making about individual matters. Accountability mechanisms include: merits review—by government agencies and by tribunals. substantive defense.



A defense that disproves, justifies, or excuses the alleged crime. self-defense. The use of force that appears to be reasonably necessary to prevent death, serious bodily harm, rape, or kidnapping to the person using force. Substantive law refers to the body of rules that determine the rights and obligations of individuals and collective bodies. ... U.S. substantive law comes from the COMMON LAW and from legislative statutes. Until the twentieth century, most substantive law was derived from principles found in judicial decisions. Substantive offense means any offense other than an inchoate offense. ... But the only specific offense characteristics from the guideline for the substantive offense that apply are those that are determined to have been specifically intended or actually occurred. Hence, while Procedural Justice focuses on carrying out decisions according to the statement of the law, Substantive Justice is interested in probing whether or not the laws are just themselves. In all, Procedural Justice follows the process of fairness. Substantive Law, body of law concerned with rights and obligations, as opposed to PROCEDURAL LAW which concerns how to enforce and defend such rights and obligations. Procedural law consists of the set of rules that govern the proceedings of the court in criminal lawsuits as well as civil and administrative proceedings. ... Substantive law is a statutory law that deals with the legal relationship between people or the people and the state. The administrative and criminal proceedings may involve similar facts but each requires a different quantum of evidence. ... The procedure in the administrative case is summary in nature and the quantum of proof required is substantial evidence, whereas, in the criminal case, proof beyond reasonable doubt is necessary. Regulatory or administrative laws are passed by executive agencies. Common law is generated through court decisions. A law begins as a bill which is proposed in the legislature and voted upon. The proposed bill can go through several hearings, edits, and votes before being approved. Administrative law (commonly called regulatory law) is law promulgated and enforced by an administrative body (usually an agency) according to that body's area of responsibility. There are different types of criminals which are classified as under. Habitual criminal. ... Legalistic criminals. ... Moralistic criminals. ... Psychopathic criminals. ... Institutional criminals or white color criminals. ... Situational or occasional criminals. ... Professional criminals. ... Organized criminals. Lore Rutz-Burri Substantive Law Substantive law includes laws that define crime, meaning laws that tell us what elements the government needs to prove in order to establish that this crime has been committed. Substantive law also includes the definitions of inchoate crimes (incomplete crimes) of conspiracies, solicitations, and attempts. Substantive law also sets forth accomplice liability (when a person will be held responsible when they work in concert with others to complete a crime). Substantive law also identifies the defenses that a person may raise when they are charged with a crime. Finally, substantive law indicates the appropriate penalties and sentences for crimes. Today, the great majority of substantive law has been codified and is found in the state's particular criminal code or in the federal code. Generally, criminal codes are separated into two parts: a general part and a special part. The general part typically defines words and phrases that will be used throughout the code (for example, the word intentionally), indicates all possible defenses and provides the general scheme of punishments. The special part of the code typically defines each specific crime setting forth the elements of the crime (components of the crime) the government must prove beyond a reasonable doubt in order to convict a defendant of a crime. Elements of the crime With the exception of strict liability crimes and vicarious liability crime (discussed below), the government will always have to prove that the defendant committed some criminal act, the actus reus element and that he or she acted with criminal intent, the mens rea element. When proving a crime of conduct, the state must prove that the defendant's conduct met the specific actus reus requirement. The government must prove that the defendant's behavior was either a voluntary act (meaning not the product of a reflex or done while asleep, or under hypnosis), a voluntary omission to act (meaning that he or she failed to act) when there was a legal duty to do so, or that he or she possessed some item that should not have been possessed. To meet the mens rea element, the state must prove that the defendant's act was triggered by criminal intent. The elements of a specific crime may also include what is referred to as attendant circumstances. Attendant circumstances are additional facts set out in the substantive law's definition that the state must prove to establish a crime, for example, that the place burglarized be a dwelling, or that the property value is at least a certain amount. When proving a crime of causation, the state must also prove that the defendant caused specific, listed harm. Although generally not included in the listed elements, to prove a crime of causation, the government must also prove that the defendant is the actual cause of the harm (actual or but/for cause) and that it is fair to hold him or her responsible (that the defendant is the legal or proximate cause of the harm). Statutes are generally silent on the other elements of crimes of conduct or crimes of causation: legality and concurrence. The legality element is met when a law is validly enacted and puts people on notice that certain behavior is illegal. Laws are presumed to be valid, and the state generally does not have to begin each case by proving that proper procedure was followed when the law was enacted. The concurrence element requires the state must also prove that the criminal intent triggered the criminal act—that the mens rea and actus reus occurred at the same time. Occasionally, a statute will be silent as to the mens rea element. When this occurs, courts need to decide whether the legislature has intended to create a strict liability crime or has just been sloppy in drafting the law. Strict liability crimes are ones where the government does not have to prove criminal intent. Courts are disinclined to find in favor of strict liability statutes unless there is a clear indication that the legislature intended to create strict liability. The courts will examine legislative history, the seriousness of harm caused by the crime, whether the crime is male in se or mala prohibita, and the seriousness of the punishment in deciding whether the state should be relieved of its obligation to prove criminal intent of the defendant. As a general rule, the courts are more likely to find that a crime is a strict liability one when there is a small punishment and when the crime is more of a recent, regulatory offense (mala prohibita crime). Inchoate Offenses: Attempt, Conspiracy, and Solicitation In order to prevent future harm, state and federal governments have enacted statutes that criminalize attempts to commit crimes, solicitations to commit crimes, and conspiracies to commit crimes. The common law also recognized these inchoate offenses or incomplete offenses. With each of the inchoate crimes, the state must prove that the defendant intended to commit some other crime, the highest level of criminal intent. For example, there is no crime of attempt, but there is a crime of attempted theft. State laws vary in the approaches and tests of whether the defendant has taken enough steps to be charged with attempt, but all agree that mere preparation does not constitute an attempt. Conspiracies involve an agreement between at least two parties to commit some target crime. Some jurisdictions also require that there be an overt act in furtherance of the crime (some outward movement towards the commission of the target crime) which reaffirms there is a meeting of the minds between the co-conspirators. Solicitations involve a person asking another to commit a crime on his or her behalf, and they do not even require an agreement by the person requested to do so. Accomplice Liability: Aiders and Abettors People who commit crimes frequently do so with assistance. Substantive criminal law describes when a person can be found guilty for the acts of another. For example, the common law recognized four parties to a crime: principal in the first degree, principal in the second degree, accessory before the fact, and accessory after the fact. Many complicated legal rules developed to offset the harsh common law treatment of most crimes as capital offenses (death penalty eligible). The modern statutory trend has been to recognize accomplices, people who render assistance before and during the crime, on one hand, and accessories after the fact, people who help the offender escape responsibility after the crime has been committed, on the other. Accomplices, as treated as equally liable as the main perpetrator as "the hand of one, is the hand of them all." Accessories after the fact, under the modern trend, are charged with hindering prosecution or obstructing justice after the crime are punished to a lesser extent than the main perpetrators. Vicarious Liability A few states have enacted vicarious liability statutes seeking to hold one person responsible for the acts of another, even when they did not provide any assistance and may have not even known about the other's behavior. These statutes, generally violate our belief in individual responsibility that only people who do justice wrong should be blamed for the crime. Vicarious liability imputes (transfers) both the criminal intent and the criminal act of one person to another. Courts generally invalidate these purported vicarious liability statutes but have at times upheld liability based upon an employer/employee relationship or a parent/child relationship. Defenses Assuming the government has proven all the elements of a crime, defendants may nevertheless raise defenses that may result in their acquittal. Defense is a general term that includes perfect and imperfect defenses, justifications and excuses, and procedural defenses. Perfect and Imperfect Defenses A perfect defense is one that completely exonerates the defendant. If the defendant is successful in raising this defense, meaning the jury believes him or her, the jury should find the defendant not guilty. An imperfect defense is one that reduces the defendant's liability to that of a lesser crime. If the jury believes the defendant, it should find the defendant guilty of a lesser charge. Negative Defenses and Affirmative Defenses Sometimes the government is unable to prove all the elements of the crime charged. When this happens, the defendant may raise a negative defense claim. The defendant doesn't have to prove anything, instead, he or she just argues that something is missing in the state's case, that the state did not prove everything the statute said it had to prove, and therefore the jury should find him or her not guilty. For example, when charging a defendant with theft, the state must prove that the defendant intentionally took the property of another. If the jury finds that the defendant did not intend to take the property, or took property that that was rightfully his or hers, then it should find the defendant not guilty. Negative defenses at their essence are claims that there are "proof problems" with the state's case. The defendant's claim that the state failed to prove its case does not depend on whether the defendant has put on any evidence or not. An affirmative defense requires the defendant to put on evidence to justify the defense, the defendant admits he did a wrongful act, such as taking someone's life, but argues that the act was the right thing to do under the circumstances. At times, the state's view differs from the defendant's view of whether the act was, in fact, the right thing to do. In those cases, the state files charges to which the defendant raises a justification defense. Justification defenses allow criminal acts to go unpunished because they preserve an important social value or because the resulting harm is outweighed by the benefit to society. For example, if a surgeon cuts someone with a knife to remove a cancerous growth, the act is a beneficial one even though it results in pain and a scar. In raising a justification defense, the defendant admits he did a wrongful act, such as taking someone's life, but argues that the act was the right thing to do under the circumstances. At times, the state's view differs from the defendant's view of whether the act was, in fact, the right thing to do. In those cases, the state files charges to which the defendant raises a justification defense. Justification defenses include self-defense, defense of others, defense of property, defense of habitation, consent, and necessity, also called, choice of evils. Justifications are affirmative defenses. The defendant must produce some evidence in support of these defenses. In most cases, the defendant must also convince the jury that it was more likely than not (a preponderance of the evidence) that his or her conduct was justified. For example, the defendant may claim that he or she acted in self-defense and at trial would need to call witnesses or introduce physical evidence that supports the claim of self-defense, that it was more likely than not that his or her actions were ones done in self-defense. State law may vary about how convinced the jury must be (called the standard of proof) or when the burden switches to the defendant to put on evidence, but all states generally require the defendant to carry at least some of the burden of proof in raising justification defenses. Excuses Excuses are defenses to criminal behavior that focus on some characteristic of the defendant. With excuses, the defendant is essentially saying, "I did the crime, but I am not responsible because I was . . . insane (or too young, intoxicated, mistaken, or under duress)." Excuses include insanity, diminished capacity, automatism, age, involuntary intoxication, duress, mistake of fact, and then a variety of non-traditional syndrome excuses. Like justifications, excuses are affirmative defenses in which the defendant bears the burden of putting on some evidence to convince the jury that he or she should not be held responsible for his or her conduct. Procedural Defenses Procedural defenses are challenges to the state's ability to bring the case against the defendant for some reason. These defenses point to some problem in the process or the state's lack of authority to bring the case rather than facts surrounding the crime or the criminal. Procedural defenses include: double jeopardy (a defense in which the defendant claims that the government is repeatedly and impermissibly prosecuting him or her for the same crime), speedy trial (a defense in which the defendant claims the government took too long to get his or her case to trial), entrapment (a defense in which the defendant claims the government in some way enticed him or her into committing the crime), the statute of limitations (a defense in which the defendant claims the government did not charge him or her within the required statutory period), and several types of immunity (a defense in which the defendant claims he or she is immune from being prosecuted). Although procedural defenses are considered procedural criminal law, many states include the availability of these defenses in their substantive criminal codes.