

Class 14

Criminal Law

Mistake

► Mistake of Fact

- Is a complete defense to the alleged crime committed, if it serves to *negate an element of a crime*
- Most applicable to *specific intent crimes*, where it serves to negate the specific intent, even if the mistake is unreasonable
- Split in jurisdictions if an unreasonable mistake is a defense to a general intent crime; MPC allows the “unreasonable mistake” defense, as it negates the commission of a crime
- Unreasonable mistake *never a defense to reckless or negligent crimes*

Mistake (cont.)

► Mistake of Law

► General rule: **Ignorance of the Law is no excuse!**

► Exceptions:

- If it negates a necessary element of mens rea for a specific intent crime
- Mistake ***in reliance of statute*** later found to be unconstitutional
- Mistake ***in reliance of a judicial opinion*** that ruled that the action was legal
- Mistake ***in reliance on a government official*** who presides or has jurisdiction over that specific area of law (reliance on a lawyer or a police officer in the street is not enough)
- Some statutes specifically state that lack of intent is a defense (e.g., tax evasion)

Necessity and Duress

► Necessity - Elements

1. Reasonable belief that
 2. the criminal act is necessary
 3. to prevent another harm
 4. that is imminent and
 5. that is greater than the harm that will result from the current criminal act; and
 6. there is no less harmful way to achieve that objective
- Defendant himself cannot be the cause of the greater harm now sought to be avoided!

Necessity and Duress (cont.)

► Duress - Elements:

1. A person is threatened with a ***harm***
 2. (under common law, a severe bodily harm only)
 3. that is ***imminent***; and that
 4. ***cannot be avoided*** in a non-criminal manner
- The threat cannot be defendant's fault
 - Not a defense to homicide or attempted homicide

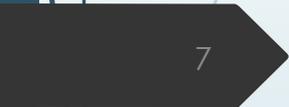
Defenses – Entrapment

► Elements:

1. A law enforcement official or agent of a law enforcement office
2. Seduces or convinces the defendant
3. To commit an illegal act
4. That he had no pre-disposition to commit

► Burden of proof:

- Defendant must prove **entrapment** by a preponderance of the evidence
- Once proven, prosecution must prove **pre-disposition** beyond a reasonable doubt



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QUIZ TIME!

Consent

- An absolute defense where one of the elements of the crime is lack of consent
- Otherwise, generally not a defense
- Can be a defense to minor assaults
- Can be express or implied
- **Never a defense to strict liability crimes**

Consent – Absolute Defense	Consent – Partial Defense	Consent – No Defense
Forcible Rape Kidnapping	Murder (i.e., assisted suicide) Severe Assault during an athletic event	Statutory Rape