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Министерство образования и науки Республики Казахстан

Павлодарский государственный университет имени С. Торайгырова

**ПРОФЕССИОНАЛЬНО-  
ОРИЕНТИРОВАННЫЙ  
ИНОСТРАННЫЙ ЯЗЫК  
(АНГЛИЙСКИЙ ЯЗЫК)**



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Гуманитарно-педагогический факультет

Кафедра «Иностранные языки»

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Учебно-методическое пособие для студентов  
юридических специальностей высших  
учебных заведений

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## Введение

В соответствии с требованиями Государственных программ Республики Казахстан по профессиональной подготовке студентов-юристов высших учебных и специальных заведений учебно-методическое пособие ставит своей целью сформировать у обучающихся навыки и умения самостоятельного чтения оригинальной литературы по специальности, умение быстро извлекать информацию в пределах проработанной тематики, вести беседу, участвовать в полемике, дискуссии, используя специальную юридическую терминологию, аннотировать и реферировать текст юридического профиля в оригинале, а также совершенствовать навыки письма. Весь текстовый материал учебно-методического пособия представляет собой аутентичные тексты, неадаптированные и содержащие важные сведения в области юриспруденции.

Пособие состоит из четырех разделов: 1 Felonies and misdemeanors, включающий в себя следующие темы: 1.1 Crime classifications, 1.2 Types of felonies, 1.3 Types of misdemeanors; 2 Felonies and misdemeanors punishment; 3 Crime reports; 4 Texts for reading.

Все разделы содержат проектные задания (Project Activity), направленные на развитие навыков самостоятельной работы студентов, которые позволяют успешно решать учебно-профессиональные задачи.

## **I Felonies and misdemeanors**

### **1.1 Crime classifications**

#### **1.1.1 Elicitation:**

What associations flash in your mind when you hear the word “crime”?

#### **1.1.2 Discussion:**

Answer the questions.

- a) Do you think we meet different crimes almost every day?
- b) What reasons should a person have to commit a crime?
- c) What conditions could cause such a situation when you are able to break the law?
- d) What crimes do you find to be the most serious/ least serious from your viewpoint?
- e) Should all people be in charge for their actions? What punishments are relevant to different crimes and law breaks?

#### **1.1.3 Focus on lexis:**

1.1.3.1 Find the explanations for the following terms, paying attention to the clues given.

- |                |                   |
|----------------|-------------------|
| 1) felony      | 9) violation      |
| 2) misdemeanor | 10) infringement  |
| 3) crime       | 11) breach        |
| 4) offence     | 12) contravention |
| 5) misdeed     | 13) lawbreaking   |
| 6) misconduct  | 14) illegality    |
| 7) wrongdoing  | 15) malpractice   |
| 8) delinquency |                   |

- a) according to the degree of seriousness, it is a very serious crime
- b) according to the degree of seriousness, it is a less serious crime
- c) a general term referring to illegal action or activity for which a person can be punished by law
- d) an action that breaks a particular law and requires a particular punishment
- e) a bad or evil act
- f) a bad, unacceptable or dishonest behaviour, especially by a professional person or someone who has a position of responsibility
- g) behaviour that is illegal or wrong from moral point of view
- h) criminal behaviour especially that of young people
- i) an action that is in opposition to a law, agreement, principle etc.
- j) an action that infringes something
- k) an act of breaking an agreement, law or promise

- l) a contra-act to what is allowed by the law or rule
  - m) to disobey the law
  - n) non-legal action
  - o) careless or criminal behaviour by someone with a professional or official job (often doctors and lawyers)
- 1.1.3.2 Complete the blanks in the table where it is possible, looking up a dictionary таблица 1.

Таблица 1

Crime	Criminal	Verb, word-combination
...	felon	...
crime	...	to commit a crime
...	offender	...
misdemeanor	...	...
...	wrongdoer	to do smth. illegal
...	delinquent	...
...	...	to violate
...	...	to infringe
...	...	...
breach	...	to contravene
...	lawbreaker	...
...	illegal	...
malpractice	...	...

1.1.3.3 Match up the parts of the words and complete the list of Russian equivalents рисунок 1:

			a. legal	
1. il-	4. wrong -		b. practice	e. breaker
2. mis-	5. mis-		c. deed	f. doer
3. law-	6. in-		d. fringe	g. demean
	7. mal-			

рисунок 1

- небрежное, преступное отношение к своим обязанностям;
- незаконный;
- нарушать правило, закон (2);
- нарушитель закона;
- правонарушитель;
- нарушение, преступление.

1.1.3.4 Scrambled words. Unscramble the terms taken from Exercise 1.1.3.1

- |                 |                   |
|-----------------|-------------------|
| a) liceparnact  | g) nelyfo         |
| b) conefef      | h) doncicmuts     |
| c) tioliavon    | i) asemrionmed    |
| d) ecmir        | j) hebarc         |
| e) gmetirfninen | k) vtortoniancenc |
| f) elynneqduci  |                   |

1.1.3.5 Complete the expressions with one of the most appropriate term from the box and fill in the gaps in the sentences given:  
 infringement, delinquency, contravention, misconduct, violation, breach, crime, malpractice, offences

... of, minor ..., airspace, ... of, organized ..., regulation, professional, ... of, ... security, medical ..., in ... of the terms of the treaty, juvenile ... .

1) He is known to be a very professional doctor. So any allegations of ... can damage his reputation.

2) The growing problem of ... is a specific feature of Italian society.

3) According to the statistics, the rate of ... indicates the effectiveness of political course in the country.

4) The press – secretary persuaded that it was a ... and now the crew members of the plane are answering the questions of FBI officers.

5) Pickpocketing and shoplifting belong to the category of ... .

6) The behavior of local authorities was distinguished as a ... .

7) The ... is punishable by a fine.

8) The party decided to lead the agitation in ... .

9) The investigator thinks it could happen due to the ... of bank security. The burglars broke the alarm system of the building and got into.

Historical background:

Crimes are sometimes divided according to their nature:

– mala (malum) in se – "Wrong in itself", the class comprises those acts that are thought to be immoral or wrong in themselves, or naturally evil, such as murder, rape, arson, burglary, larceny, and the like.

– mala (malum) prohibita – "Prohibited wrong", the class embraces those acts that are not naturally evil but are prohibited by statute because they infringe on the rights of others (e.g., acts in restraint of trade that have been made criminal under antitrust legislation).

But usually crimes are classified as treason, felony, or misdemeanor.

In law, treason is the crime of disloyalty to one's nation. A person, who betrays the nation of their citizenship and/or reneges on an oath of loyalty and in some way willfully cooperates with an enemy, is considered to be a traitor. Treason is defined as citizen's actions to help a foreign government overthrow, make war against, or seriously injure the parent nation. One person's traitor is another's patriot.

The fundamental distinction between felonies and misdemeanors rests with the penalty and the power of imprisonment. In general, a misdemeanor is an offense for which a punishment other than death or imprisonment in the state prison is prescribed by law. The term "degree of crime" refers to distinctions in the culpability of an offense because of the circumstances surrounding its commission.

Ask the lawyer.

QUESTION: What is the difference between a felony and a misdemeanor?



ANSWER: When you commit a crime in our society, you have to be punished. How much punishment a criminal gets depends on how bad their crime was.

To help determine how bad a crime was, the crime is called either a 'felony' or a 'misdemeanor'.

Felonies are more serious crimes, and misdemeanors are less serious crimes. Both can also result in imprisonment.

Felonies and misdemeanors are also given a number explaining how serious the crime is. The most serious crime is a 'class one felony', and the least serious crime is a 'class three misdemeanor'. Here's how the order goes:

CLASS 1, 2, 3, 4, 5, & 6 FELONIES, CLASS 1, 2 & 3 MISDEMEANORS. A class 1 misdemeanor falls right after a class 6 felony.

## 1.2 Types of felonies

### 1.2.1 Elicitation:

What associations flash in your mind when you hear the word "felony"?

### 1.2.2 Discussion:

Answer the questions.

a) What do you know about felony crimes? What types of felony crimes are the most serious from your point of view?

b) Do you think that it is really necessary to divide all the crimes into the categories? Do you find a "treason-felony-misdemeanor" division to be practically adjustable?

c) What are advantages and disadvantages of such a division?

d) What division could you propose?

### 1.2.3 Focus on lexis

1.2.3.1 The box below gives the names of 22 crimes. The list gives the definitions of the same crimes. Match the crimes to their definitions.

Arson, assassination, assault, bigamy, blackmail bribery, burglary, embezzlement, espionage, extortion forgery, fraud, libel, manslaughter, murder, perjury piracy, robbery, slander, smuggling, theft, treason

1) acting in such a way as to make someone believe he or she will be hurt

2) betraying your country to a foreign power

3) copying patented inventions or copyrighted works

4) entering a building illegally and stealing things

5) getting money from people by threatening to publicise facts they do not want revealed

- 6) getting money from people by using threats
- 7) getting property or money from people by making them believe untrue things
- 8) going through a ceremony of marriage when you are still married to someone else
- 9) killing a public figure illegally and intentionally
- 10) killing someone illegally and intentionally
- 11) killing someone unintentionally or in mitigating circumstances
- 12) making an illegal copy of a banknote or document
- 13) offering money corruptly to get someone to do something to help you
- 14) saying something which damages someone's character
- 15) setting fire to a building
- 16) stealing something by using force or threatening to use force
- 17) stealing, taking property which belongs to someone else
- 18) taking goods illegally into or out of a country
- 19) telling lies when you have sworn an oath to say what is true in court
- 20) trying to find out secrets by illegal means
- 21) using illegally or stealing money which you are looking after for someone else
- 22) writing, publishing or broadcasting a statement which damages someone's character

1.2.3.2. Below are ten statements by defendants. Read the statements and say what crime each one has been accused of.

1) "I arrived home late and found that I'd forgotten my keys. I didn't want to wake my wife up, and I saw there was a ladder in the garden of the house next door. I got the ladder and climbed in. We've just moved house and I didn't realise I was in the wrong street..."

2) "I was walking my dog when I saw the gun lying on the ground. I picked it up – it was still warm – and at that moment I saw the body lying in the long grass. I went across to look and it was my business partner. That's when the police arrived..."

3) "I opened the bank account in a false name as a way to help my employer pay less tax – it's perfectly legal. I kept meaning to tell him, but somehow I just forgot. I bought the villa in France with my own money. It was an inheritance..."

4) "OK, so there are 123 copies of the video. That's perfectly true, but I had no intention of selling them. I'm a collector."

5) "Well this obviously isn't my suitcase. I've never seen these things before in my life. The monogram? Well, they are my initials, but that must

be a coincidence. That's probably how the two cases got mixed up. After all, they aren't very unusual initials. A photograph with me in it? My word, that's incredible! It must be someone who knows me..."

6) "I didn't know my wife was still alive, I thought she'd died in a car accident. I couldn't believe it when I saw her walk into the room. Surely you don't think I married you just to get your money...?"

7) "You misunderstand me. When I offered him the money I meant it as a gift. I know that life can be difficult for a young man on a police salary, especially if he has a family, young children etcetera. It isn't easy and I know that. I just wanted to help. I didn't expect him to do anything in return..."

8) "After leaving the office I realised I'd forgotten my umbrella. I went back in to get it. When I went in I noticed that the photocopier was still turned on. It had been working very badly all day, and I decided to quickly see what was wrong with it before going home. I made a few test copies of documents that were in the office; I didn't even look at what I was copying. The machine seemed to be working much better. I put the copies in my briefcase – intending to use the other side as note-paper. I don't believe in wasting paper. At that moment Mr. Sanders came out of his office..."

9) "I painted them for pleasure. I had no intention of deceiving people. I never said they were by other people. Yes, I did include the signatures of other artists but that's because I wanted them to be perfect copies..."

10) "Mr. Wills sent me the money to help me in my business venture – I'm trying to start a design agency. He sent me cheques every month for \$1200. A couple of times he sent extra when I had special expenses. It was always understood that he would participate in the profits of the business when it was running. We didn't write anything down, it was an oral agreement. The photographs I have of him with his secretary have no connection with these payments."

1.2.4 Focus on reading:

1.2.4.1 Read the text ...

L Felony crimes (Part I)

Felony crimes are serious offenses punishable by a heavy sentence. The punishment is usually imprisonment, but in certain murder cases, the punishment could be death.

In early English law a felony was a heinous act that canceled the perpetrator's feudal rights and forfeited his lands and goods to the king, thus depriving his prospective heirs of their inheritance. The accused might be tried by an appeal of felony, i.e., personal combat with his accuser, the losing party to be adjudged a felon. The appeal of felony was gradually re-

placed by rational modes of trial and was altogether abolished in England in 1819. In addition to the forfeiture of his property, the convicted felon usually suffered death, long imprisonment, or banishment. Death was an especially common English penalty in the 18th and the early 19th cent. To the list of common-law felonies – including murder, rape, theft, arson, and suicide – many others were added by statute. With the abolition of forfeitures in England in 1870 the felony acquired essentially its modern character.

Felony is used in various senses in the United States. In federal law, any crime punishable by death or more than one year's imprisonment is a felony. This definition is followed in some states; in others the common-law definition is retained, or else statutes specifically label certain crimes as felonies. Other possible consequences of committing a felony are loss of the rights of citizenship, deportation if the felon is an alien, and liability to a more severe sentence for successive offenses. Felonies are usually tried by jury, and in some states the accused must first have been indicted by a grand jury .

If you are convicted of a felony you will lose many of your civil rights. You will not be eligible to vote and you will not be eligible to run for public office. Some jobs will require certain bonding or insurance coverage before you can obtain the job. Many insurance companies will refuse to bond convicted felons and, therefore, even though you are not barred by law from certain jobs, you may find it difficult to obtain the job because of insurance or other requirements.

1.2.4.2 Find English equivalents to the following Russian word and expressions.

Наказуемый, ужасное деяние, предполагаемые наследники, проигравшая сторона, разумные формы судебного разбирательства, обвиняемый преступник, особо распространенное наказание, различные значения, определенные преступления, возможные последствия, рецидивные преступления, гражданские права, страховое обеспечение, страховые компании, общественная работа.

1.2.4.3 Word search: find a word in the text to complete these phrases and translate them from English into Russian.

... offenses (2)	modern...
public...	in ... senses
... sentence (2)	federal...
murder...	... consequences
... act	... jury
... combat	civil...
losing...	certain... (2)

convicted...	insurance... (2)
common-law... (2)	... requirements
1.2.4.4 Retell the text using these verbs:	
to cancel	to be indicted by
to forfeit	to be convicted
to deprive smb. of smth.	to label
to be tried by	to lose
to be gradually replace by	to be eligible to vote
to be abolished	to require
to suffer	to obtain
to be added	to refuse
to acquire	to be barred by
to be used	to find smth. difficult
to be retained	

1.2.4.5 Read the text ...

L Felony crimes (Part II)

Some examples of common felonies are murder, grand theft, burglary, robbery, kidnapping, and some drug offenses.

Charged with murder

The U.S. Code defines murder as "the unlawful killing of a human being with malice aforethought." This Code separates murder into two categories: murder in the first degree and murder in the second degree. Murder may be charged as the lesser offense of manslaughter.

If charged with murder, the degree of seriousness is dependent upon the mindset of the person who committed the act resulting in death. Murder in the first degree includes every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing. Murder in the first degree also includes killings committed in the perpetration, or the attempted perpetration of any arson, escape, kidnapping, treason, espionage, sabotage, sexual abuse, burglary, or robbery. All other murders are considered murder in the second degree. So if the killer lacked malice or did not premeditate his act, he is guilty of a lesser degree or may be guilty of manslaughter.

An accidental killing may be prosecuted as murder if the act causing death was done with a reckless disregard for the safety of others. A drunk driver who causes a traffic accident resulting in death can be prosecuted for manslaughter.

Depending on varying state criminal laws, those guilty of murder in the first degree may be sentenced to life in prison or death, and those guilty of second degree murder can be imprisoned for any amount of years or life.

Defense to murder

A common defense to murder is self-defense. That is, the defendant was forced to kill to save his own life. However, most state requires that the force actually used to kill the other by the defendant was not more than the force reasonably necessary to fend off the actual threat of death. A common mitigating defense to Murder is that the defendant did not act with intent to kill. Most often this means that the death was an accident or an act of ordinary carelessness. Another mitigating defense is sometimes called diminished capacity or killing in the heat of passion. This defense often attempts to prove that the defendant acted in the heat of passion such that he could not reasonably control his actions under the circumstances.

1.2.4.6 Find English equivalents to the following Russian word and expressions.

С умыслом, степень тяжести, вменяемость, предумышленное, случайное, опрометчивая небрежность, безопасность, дорожно-транспортное происшествие, самозащита, смягчающее, обычна небрежность, в порыве ярости, при сложившихся обстоятельствах

1.2.4.7 Read, translate and give the definitions to other types of felonies:

Grand theft, kidnapping, drug offences, escape, sabotage, sexual abuse, traffic accident, e.g. escape – it is ...

1.2.4.8 Find in the text the sentences, the schemes of which are given below and translate them from English into Russian.

- a) ... charged with ..., ... is dependent... committed... resulting in ...
- b) ... includes ... committed ... treason... .
- c) ... lacked... did not premeditate... is guilty of ... may be guilty of
- d) ... be prosecuted... causing... was done... .
- e) ... is, ... was forced to kill to save ... .
- f) ... requires... used to kill... was... to fend off ... .
- g) ... mitigating... is ... called diminished... killing... .

1.2.4.9 Fill in the gaps with the prepositions where it is necessary, translate them into Russian and make up a situation using as many word-combinations as you can.

- ...malice aforethought                      - to be prosecuted... man-
- the degree... seriousness                      slaughter
- to be dependent... the mindset...                      - a murder... the first degree
- the person    - any other kind... willful
- charged... murder                                      - a common defense... murder
- perpetrated... poison                                      - to be forced... kill
- to be imprisoned... any amount                      - not act... intent... kill
- of years    - an act... ordinary careless-



- 3) ... if possessed without the benefit of a prescription  
 4) ... regardless of whether the owner is the same person...

1.2.4.12 Fill in the gaps with the most appropriate verb-forms from the box.

Classifies, prescribed, found, occurs, prohibits, depending on, bring.

The law 1)... the possession of controlled substances unless 2)... by a physician. Possession of any quantity of illegal drugs can 3)... a jail or prison term, 4) ... the quantity of the drug and on how the law 5)... the dangerous-ness of the drug. Possession 6)... either directly, (in a suspects pocket or somewhere on their person) or indirectly if ... in an area of their control, (in the glove compartment or trunk of a car, in a persons purse or briefcase, in the pocket of a jacket hanging in a closet).

1.2.4.13 Recognize the words from the text.

a) You can be under the law for ...

- . . le
- d . . i . e . y
- m . . . f . . t . . ing
- . o . . e . . ion
- di . . . . b . tion
- . r . . . p . . . a . . o .

b) It can result in ...

- con . . c . io .
- a . . e . t
- . ri . . on
- . ine

-p . l . c . s . a . ch

c) You will be ...

- p . o . e . u . ed

d) Your car, home and other property will be

- . o . . i . c . . ed

e) But you may ...

- f . . e a c . . im for the re . . . n of the pr . . . t .

1.2.4.14 Match up the parts of the word-combinations and use them to complete the sentences.

- |                |              |
|----------------|--------------|
| 1) prison      | a. search    |
| 2) legal       | b. issue     |
| 3) police      | c. charges   |
| 4) central     | d. procedure |
| 5) jail        | e. fine      |
| 6) substantial | f. sentence  |
| 7) drug        | g. term      |



- a) Offenders will be liable to a seven-year... .
- b) Very often illegal substances are found as a result of ... .
- c) The ... of each police operation is to catch the criminals in the process of committing the crime.
- c) Felonies are punished by imprisonment or ... .
- d)... is a very complicated problem for lawyers.
- e) A person who faces... should hire a professional lawyer to be properly defended in the court.
- g) Many people are sure that ... for murderers should be substituted by death penalty.

1.2.4.15 Fill in the gaps with the prepositions and make up your own sentences (situation, story, etc.) with the given phrases.

- to be arrested... charges
- to file a claim... the return... the property
- prescribed... a physician
- possession... intent... distribute
- result... a lengthy prison term
- time limits... filing a claim
- a central issue... drug offenses
- a lack... knowledge
- to be late... work
- to belong... somebody

1.2.4.16 Render the text into English.

200 миллионов человек в мире употребляют наркотики. Среди россиян таких 6 миллионов. Продолжительность жизни человека, начавшего употреблять наркотики, всего 5–7 лет. Каждые 20 минут от употребления наркотиков погибает молодой житель нашей планеты. Нет ни одной страны в мире, которая бы не столкнулась (to face the problem) с этой проблемой. Рынок наркотиков не знает границ. И, к сожалению, даже суровые законы не могут его остановить. Наркобизнес разрастается и стремится установить свои правила, рвется во власть и сотрудничает с мировым терроризмом. За последние 10 лет в Москве в 10 раз увеличилось число больных наркотической зависимостью (drug addiction). Одной из причин явилась отмена уголовного наказания за употребление наркотиков и принудительного лечения (forced treatment) наркоманов.

1.2.4.17 Read the text ...

L Felony crimes (Part IV)

Rape

In the area of sex crimes, this is a broad category which usually involves rape, sexual battery, and prostitution.

If the defendant commits rape while armed, causes bodily injury, or is aided by another person, the more serious offense of aggravated rape is charged. If a participant is unable to give consent due to drug or alcohol intoxication, or due to mental incapacity, it is also rape. The rape of a child under the age of thirteen usually carries the same penalties as aggravated rape.

1.2.4.18 Find in the text the following word-combinations and translate them into Russian.

- |                    |                |
|--------------------|----------------|
| - serious...       | - mental...    |
| - ... rape         | - ... category |
| - ... intoxication | - bodily...    |

1.2.4.19 Translate the text into English.

Прокурор (procurator) отказался от обвинения по делу москвички, обвиняемой в убийстве таксиста, который пытался ее изнасиловать. Обвинитель (prosecutor) полностью отказался от обвинения и просил прекратить дело, поскольку, по его мнению, обвиняемая находилась в состоянии необходимой обороны.

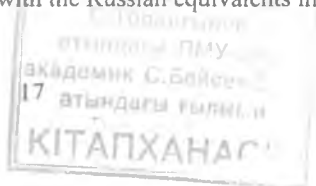
1.2.4.20 White-collar crimes

White-collar crime is a term that is usually applied to crimes associated with business that do not involve violence or bodily injury to another person. In criminal law, white-collar crime refers to any offense committed in a professional or business setting. Typically, antitrust violations, bankruptcy, bribery, computer and internet fraud, credit card fraud, telemarketing fraud, counterfeiting, trade secret theft, embezzlement, environmental law violations, financial crime, insider trading, securities fraud, government fraud, healthcare fraud, identity theft, kickbacks, mail fraud, money laundering, public corruption, securities fraud, tax evasion, insider training, and insurance fraud fall into this category.

Of all of these crimes, identity theft is quickly becoming the most common. One in 50 consumers will fall prey to identity theft this year alone. Many of these victims won't even be aware that they have been targeted until well after the crime has occurred, making it even harder to find the culprit. In addition, credit card fraud, too, is an all-too-common occurrence. According to many experts, roughly one in every 20 consumers has had his or her credit card or credit card number stolen at some point and used to make illegal purchases.

White-collar crimes may be prosecuted in state or federal courts, depending upon whether state or federal laws have been violated. The penalties for committing white-collar crimes vary, but in some cases they may be as severe as those prescribed for violent crimes.

1.2.4.21 Match up the words with the Russian equivalents in the box.



Fraud, culprit, embezzlement, kickback, bribe, prey, moneylaundering, counterfeiting.

Растрата, преступник, взятка, деньги за услугу, подделывание, отмывание денег, мошенничество, «добыча».

1.2.4.22 Choose all word-combinations with the word "fraud" and translate them into Russian.

1.2.4.23 Find the synonyms from B to the verbs from A.

A. to associate, to involve, to violate, to defraud, to vary

B. to link with, to concern, to break, to deceive, to differ

1.2.4.24 Decide what are the most appropriate explanations for the notions in brackets.

Securities Fraud

Insurance Fraud

Internet Fraud

Credit Card Fraud

Embezzlement

Mail Fraud

a) illegally confiscating someone else's property  
b) using the Internet and/or computer to carry out a crime  
c) committing some sort investment banking or stock fraud, such as risky investments, churning, insider information, unauthorized trading, or malpractice

d) using someone else's credit card to make unauthorized purchases

e) using the mail system to commit a crime

f) making a claim to an insurance company for an accident that never occurred or a condition that doesn't exist

1.2.4.25 Translate the text into English.

Более 200 миллионов рублей арестовано Федеральной службой безопасности на счетах частных фирм, подозреваемых в причастности к противозаконной деятельности, причем не только на территории России.

Средства были задержаны в одном из петербургских коммерческих банков в рамках (within the framework of) расследования уголовного дела об отмывании денег (moneylaundering).

Схемы по легализации "грязных денег" (ill-gotten money) укрупняются и становятся все более изощренными. Некоторые

1.2.4.26 Firearms

In general, the law divides firearm offenses into two categories: carrying concealed firearms and using a firearm to commit a crime.

Carrying concealed firearms, in a state which prohibits it, is usually a misdemeanor, not punishable by a prison sentence. An unarmed robbery, even though a felony, is not as serious as using a firearm to commit the robbery.

The use or display of a firearm or other deadly weapon may elevate an offense to a more serious crime or increase the punishment. For example, an assault committed with a deadly weapon is a felony, while an unarmed assault is usually a misdemeanor.

1.2.4.27 Find the English equivalents to the following word and expressions in the text:

ношение огнестрельного оружия, запрещать, ограбление, увеличить наказание, нападение с оружием, смертоносное оружие.

#### 1.2.4.28 Burglaries

Burglaries are the entry into a building with the intent to commit a theft or any felony inside the building. If the building being entered is a place of residence, this is prosecuted as a residential burglary. If the building is a commercial structure, this is a commercial burglary.

The crime of burglary occurs upon entry. The key to burglary is the intent of the person as he enters the structure. If the person intends to steal or commit any felony as he enters, the crime is burglary. It is not necessary that the felony or theft be completed; only that it was intended upon entry. Identity of a burglary suspect is often proved using fingerprints. Fingerprints found at the point of entry or around the area of a theft can prove the identity of a burglar рисунок 2.



рисунок 2

#### Defenses to burglary

A common defense to such an accusation is that the suspect had a legitimate reason for being in the area in the past and it is impossible to know how long a fingerprint has been on a surface. The suspect may have been a handy man who had done work on the house week's prior.

1.2.4.29 Find out all if-sentences and translate them into Russian.

1.2.4.30 Match up the parts of the words and complete the list of Russian equivalents рисунок 3.

1. in-	4. struc-	a. dy	d. prints
2. han-	5. ent-	b. possible	e. ry
3. im-	6. finger-	c. ture	f. side

рисунок 3

Отпечатки пальцев, невозможный, вход, строение, внутри, рабочий.

1.2.4.31 Arrested for robbery

Robbery is the direct taking of property from the person of another by the use of force, intimidation or fear. Examples of robbery are purse snatching, car jacking, the "mugger" who takes a wallet or piece of jewelry, or even the kid who threatens to beat up another kid if he doesn't hand over his lunch money.

1.2.4.32 Match up the words with the English equivalents in the box.

- 1) налетчик
- 2) выхватить кошелек
- 3) захватить машину
- 4) страх
- 5) драгоценности
- 6) отдать
- 7) угрожать
- 8) запугивание
- 9) бумажник
- 10) собственность
- 11) сила

- |                        |
|------------------------|
| a. jewelries           |
| b. mugger              |
| c. to hand over        |
| d. force               |
| e. car-jacking         |
| f. intimidation        |
| g. wallet              |
| h. to snatch the purse |
| i. fear                |
| j. property            |
| k. to threaten         |

1.2.5 Brush up the unit

1.2.5.1 Expand the idea looking through all the texts concerning felony crimes.

- 1) The crimes can be divided according to their nature as ...
- 2) Usually crimes are classified as ...

- 3) In law, treason is the crime of ...
- 4) The list of common-law felonies consists of ...
- 5) In the United States felony is used...
- 6) The U.S. Code defines murder as ...
- 7) Possible consequences of committing a felony are ...
- 8) Murder in the first degree includes...
- 9) Murders in the second degree are considered...
- 10) An accidental killing may be ...
- 11) Depending on varying state criminal laws...
- 12) A common mitigating defense to Murder is ...
- 13) The defense for murder often attempts to prove ...
- 14) Controlled substances include drugs such as ...
- 15) Narcotics cases are commonly prosecuted under one of three ways...
- 16) Your car, home, or other property...
- 17) A common defense for drug offences is ...
- 18) In the area of sex crimes...
- 19) Examples of so-called white-collar crime are ...
- 20) The penalties for committing white-collar crimes may be ...
- 21) The law divides firearm offenses into ...
- 22) Carrying concealed firearms...
- 23) The use, display of a firearm or other deadly weapon...
- 24) The key to burglary is ...
- 25) Identity of a burglary suspect is often proved...
- 26) A common defense for burglary is ...
- 27) Robbery is ...
- 28) Examples of robbery are ...

#### 1.2.5.2 Test translation.

Translate from Russian into English.

Каждый день в криминальной хронике озвучиваются случаи тяжких преступлений. Среди них: грабежи, разбойные нападения, убийства, изнасилования, угрозы огнестрельным оружием, кражи и дорожно-транспортные происшествия. Увеличилось число преступлений, связанных с наркотиками. Хранение, продажа и употребление наркотиков всегда заканчивается криминалом. Самые «злостные» наркодельцы – это представители цыганских диаспор (gypsy; Romany). Они ухитряются доставлять наркотики даже в самые отдаленные населенные пункты и деревни. Кочевой образ жизни позволяет им быстро сниматься с места при появлении серьезной опасности со стороны правоохранительных органов. Кроме всего прочего, часто они являются и поставщиками оружия.

Еще один вид преступлений, который стал очень распространенным за последнее десятилетие – это преступления «белых воротничков». Здесь нет прямых телесных повреждений и ранений. Банковские махинации, отмывание денег, всевозможные подделки и обманы – это зачастую их рук дело.

Нападения на улице, квартирные кражи также вызывают страх. Причем эти виды преступлений заметно «помолодели». Подростки и несовершеннолетние, находясь под воздействием наркотиков и алкоголя, идут порой на совершенно не обдуманные преступления. Но поражает жестокость, с которой они совершаются. Возможно, они мстят обществу за необустроенность, потерю веры в общечеловеческие ценности и за страх по поводу своего будущего.

Но выход есть всегда! Конечно же, человек должен отвечать за свои поступки, и того, кто нарушил закон, следует карать. Он должен чувствовать, что общество не позволит ему избежать суда и наказания.

Но самое главное – современный мир должен понять, что просто нет другого пути, как стать... добрее и начать уважать друг друга. А добрее можно стать уже сегодня – к своим детям, родителям, друзьям. Сколько горя приносит ребенок-наркоман или родитель-алкоголик и сколько радости можно вернуть друг другу, проведя день, два... год... без пагубных пристрастий и выдуманного ухода от реальности.

#### 1.2.6 Project task

##### 1.2.6.1 Project activity

Divide into groups of 3-5 persons for making up a report about felony crimes in different countries.

1.2.6.2 Arrange the report with the help of the chart using different sources of information: Internet, TV, radio, newspapers, textbooks, etc.

Chart:

- 1) Country \_\_\_\_\_
- 2) Statistics on felonies in the country \_\_\_\_\_
  - a) general rate of felonies \_\_\_\_\_
  - b) felony types domain \_\_\_\_\_
- 3) Possible reasons for felony crimes \_\_\_\_\_

1.2.6.3 Present the report to your groupmates supporting it with video episode demonstration, power point aid accompanying, etc.

##### 1.2.7 Questions for conclusive discussion

- 1) What crimes can be classified as “felonies”?
- 2) What are usual punishments for felony offences?
- 3) Do you think it is just and fair to be not eligible to vote and run for public office after having been imprisoned for felony offence?

4) Compare the crimes fallen under the classification of felonies in different countries and punishments usually given for them. Express your own opinion concerning the severity of state policy towards crime prevention.

5) Work in pairs or groups and create your own self-defense methodology for avoiding and preventing felony. What steps should be undertaken by a potential victim?

### 1.3 Types of misdemeanors

#### 1.3.1 Elicitation:

What associations flash in your mind when you hear the word "misdemeanor"?

#### 1.3.2 Discussion:

1) What definition do you find to be the most appropriate to "misdemeanor"?

A) it is a crime that breaks a particular law and requires a particular punishment

B) it is an illegal action or activity for which a person can be punished by law

C) it is an act that some people consider to be wrong or unacceptable

D) it is a very serious and violent crime

E) it is something that can be compared with breaking a rule

1.3.2.1 Do you have your own understanding of such a kind of crimes as misdemeanors?

1.3.2.2 Give the examples of misdemeanor crimes.

#### 1.3.3 Focus on lexis:

1.3.3.1 Match up the names of the following misdemeanors with their Russian equivalents.

- |                       |                        |
|-----------------------|------------------------|
| 1) a misdemeanor      | a. вандализм           |
| 2) an infraction      | b. нанесение побоев    |
| 3) trespass           | c. мелкое хулиганство  |
| 4) vandalism          | d. мелкое преступление |
| 5) disorderly conduct | e. нападение           |
| 6) battery            | f. нарушение           |
| 7) theft              | g. магазинная кража    |
| 8) shoplifting        | h. нарушение владения  |
| 9) an affray          | i. кража, воровство    |
| 10) assault           | j. шум, скандал        |

#### 1.3.4 Focus on reading:

Read the text

I. Misdemeanors (Part I).



A misdemeanor (or misdemeanour), in many common law legal systems, is a "lesser" criminal act, a minor crime other than treason or a felony. Misdemeanors are generally punished less severely than felonies; but theoretically more so than administrative infractions. Administrative infractions are considered civil cases, i.e. not a crime as the power to cite persons for infractions is usually left with administrative officials; it is not necessary to hold a court hearing nor is a citation the same as a conviction.

In some jurisdictions those who are convicted of a misdemeanor are known as misdemeanants. Although it might be a grave offense, it did not affect the feudal bond or take away the offender's property. By the 19th century serious crimes were labeled felonies, and minor crimes misdemeanors. In the United States a misdemeanor usually is an offense that may be punished summarily by fine and by imprisonment for less than a year. Commission of a misdemeanor does not cancel citizenship or subject an alien to deportation. Depending on the jurisdiction, examples of misdemeanors may include: petty theft, prostitution, simple assault, trespass, vandalism, disorderly conduct, disorderly intoxication, battery and other similar crimes. In general misdemeanors are crimes with a maximum punishment of 12 months or less of imprisonment, typically in a jail. Those people who are convicted of misdemeanors are often punished with probation, community service or part-time imprisonment, served on the weekends. In many jurisdictions misdemeanor convicts who are incarcerated serve their time in a local jail, whereas those convicted of a felony who are sentenced to more than one year serve their time in a prison.

While being convicted of a misdemeanor will not result in the loss of any of your civil right. However it is common that first offenders will be formally judged for the crime. Often a first offense misdemeanor crime becomes a felony after repeated offenses.

1.3.4.1 Find in the text above the English equivalents for the following words and expressions. Make up your own sentences with them:

общее право, малозначительное преступление, измена, административный проступок, привлекать к судебной ответственности, тяжкое преступление, быть наказанным в уголовном порядке, лишить гражданства, мелкая кража, нападение без отягчающих обстоятельств, нарушение владения, нарушение общественного порядка, нанесение побоев, условное освобождение преступника на поруки, общественные услуги, потеря гражданских прав, повторно совершенное преступление.

1.3.4.2 Find in the text the sentences, the schemes of which are given below and translate them from English into Russian.

- A) ... in many common legal system is ... other than ... .
- B) ... are generally... less... than ... .
- C) In some ... those who are ... are known as ... .
- D) In the United States... is an offence that ... summarily by ... for less than a year.
- E) Depending on ...examples of ... may include... .
- F) Those people who ... are often ...served on the weekends.
- G) Often a first ... becomes ... after... .

1.3.4.3. Work in pairs. Make up ten questions on the text and ask each other.

1.3.4.4 Read the text

L Misdemeanors (Part II).

The following types of crimes can be referred to what is known as misdemeanors.

Theft (also known as stealing) is in general, the wrongful taking of someone else's property without that person's willful consent and with the intent to permanently deprive the owner or the person with rightful possession of that property or its use. So it is composed of two elements, the *actus reus* – the unauthorized taking or use – and the intent to deprive – the *mens rea*. Thus if one goes to a restaurant and accidentally takes someone else's hat or scarf instead of one's own, one has deprived someone of the use of their property and has taken the other person's property in an unauthorized manner but without the intent to deprive the person of their property there is no criminal act (*actus reus*) and thus no crime.

If you are arrested for shoplifting, it can be a serious crime which can be a misdemeanor or a felony, depending on the item taken. For example, petty larceny, which is stealing an item worth less than a certain dollar amount, is a misdemeanor. Over that amount, the offense is grand theft, which is a felony. The dollar amounts that determine petty larceny or grand theft vary from state to state.

A store owner or someone who works for the owner generally has the right to detain a person they suspect of shoplifting in order to investigate the possible crime. This investigation must take place in a reasonable amount of time. Generally, the owner or employee can't look inside the person's bag without permission, unless they actually saw the person steal something, or the item is in plain view. If this is not the case, the store would either have to let the person go or call the police to conduct any further investigation. The owner or employee can't loudly accuse the suspect in front of other customers and must not be rude or offensive during questioning.

Resisting an arrest is a misdemeanor. It is also a misdemeanor to interfere with an officer while he is engaged in official duties. Resisting arrest typically comes in the form of an arrestee physically struggling with an officer as he tries to place on handcuffs, or when the arrestee struggles as he is being placed in a patrol car or jail cell.

Interfering with the duties of an officer typically occurs when a person attempts to physically restrain an officer to prevent the arrest of another, or when a person is verbally abusive or taunting an officer as he is engaged in his duties.

A common defense to resisting arrest is that the officer acted with excessive force. While an arrestee is expected to comply with an officer's reasonable actions to affect an arrest, the arrestee is allowed to defend himself from unreasonable, excessive force used by the officer.

DUI (driving under intoxication), or drunk driving, means driving or operating a motor vehicle in a public place while intoxicated. It is usually a misdemeanor. This offense can also be defined as a DWI, or driving while intoxicated, or an OWI, meaning operating while intoxicated. All three charges are punishable to differing degrees depending on each state's laws.

If you are arrested for drunk driving, you may be asked to take a blood or breath test. The decision whether or not to take the test may be an important one. You do have the right to refuse the test. However, your refusal could cause you to lose your driver's license for up to one year. Your refusal will also be made known to the court.

The police will forward all evidence, including the results of the blood alcohol test, to the prosecutor's office, where a decision about whether to prosecute will be made. If they decide to prosecute, you should obtain a good lawyer with considerable experience in this field. Depending on the court proceedings, officer testimony, and test results, you may be charged with a DUI, DWI, or OWI. Usually these charges incur large fines, jail time, and community service, along with the suspension of driving privileges.

Although state laws vary, many states follow the Uniform Vehicle Code. It defines reckless driving as "willful or wanton disregard for the safety of persons or property."

In order to charge someone with reckless driving, the prosecutor must show that a driver did not care about the harm resulting from his or her driving, and that the driver should have realized such driving posed a hazard. When another person is killed as the result of reckless driving, the offending driver may be prosecuted for vehicular homicide, which is punishable by imprisonment and a fine.

1.3.4.5 Find in the text the sentences, the schemes of which are given below and translate them from English into Russian.

a) ... is in general ... without that ... and with the intent... or the person with ... or its use.

b) So it is composed of ..., the ...- and the - ... .

c) If you are ... for, it can be ... which can be a ... or a ..., depending on ...

d) A ... or someone who works for the ... generally has ... they suspect of ... in order to ... .

e) Generally, the ... or ... can't ... without permission, unless they actually saw ..., or the ... .

f) The ... can't loudly... in front of ... and must not be ... or ... during ... .

g) ... typically comes in the form of ... with the officer as he . . . or when ... as he is being placed in ... .

h) ... with the duties of ... typically occurs when ... to prevent the arrest of another ... or when a person is ... as he is ... .

i) ... or ... means... motor vehicle... while... .

j) If you are ... for ... you may be asked ... .

k) The police will ... including ... to the ...where a decision about ...be made.

l) Usually these... incur..., ..., and ... along with ... .

m) In order to ... someone ..., the ... must show that ... about ... resulting from ..., and that the ... should... such ... .

1.3.4.6 Fill in the prepositions where it is necessary (for, on, with, of, in front of, in order to, in, as, about, by) .

1) If a person arrested... shoplifting, it can be a misdemeanor or a felony, depending... the item taken.

2) The owner of the shop can detain a person they suspect... shoplifting... to investigate the possible crime.

3) The owner or employee can't loudly accuse... the suspect... other customers.

4) It is also a misdemeanor to interfere... an officer while he is engaged... official duties.

5) Resisting arrest typically comes... the form ... an arrestee physically struggling... an officer as he tries to place... handcuffs.

6) An arrestee is expected to comply... an officer's reasonable actions to affect... an arrest.

7) If you are prosecuted, you should obtain... a good lawyer... considerable experience... this field.

8) It defines reckless driving... "willful or wanton disregard... the safety... persons or property."

9) ... to charge someone... reckless driving, the prosecutor must show that a driver did not care... the harm resulting... his or her driving

10) When another person is killed... the result... reckless driving, the offending driver may be prosecuted... vehicular homicide, which is punishable... imprisonment and a fine.

1.3.4.7 Restore the situations in which the following words and word combinations are used.

- A) 1. the wrongful taking of someone's property
- 2. with the intent to deprive smb. of smth.
- 3. to be composed of
- B) 1. to depend on
- 2. a petty larceny
- 3. a grand theft
- 4. to vary
- 5. from state to state
- C) 1. to have a right to detain
- 2. to suspect of
- 3. to investigate the crime
- 4. to steal smth.
- 5. to accuse the suspect
- 6. during questioning
- D) 1. to interfere with an officer
- 2. to be engaged in duties
- 3. to place on handcuffs
- 4. to be placed in a jail cell
- 5. to act with excessive force
- 6. to comply with the officer's actions
- E) 1. to drive a motor vehicle
- 2. while intoxicated
- 3. to take a blood or breath test
- 4. to lose one's driver's license
- 5. forward all evidence
- 6. officer testimony
- 7. the suspension of driving privileges

1.3.4.8 According to the text, complete the following table. Present the information to your groupmates *таблица 2*.

*Таблица 2*

Types of misdemeanors	Background for conviction	Possible punishment	Possible defence
***	***	***	***

1.3.4.9 Read the text ...

L Misdemeanors (Part III).

Affray is the fighting of two or more persons in a public place to the terror (in French: a l'effroi) of the lieges. The offence is a misdemeanor at English common law, punishable by fine and imprisonment.

A fight in private is an assault and battery, not an affray. As those engaged in an affray render themselves also liable to prosecution for assault, Unlawful Assembly, or Riot, it is for one of these offences that they are usually charged. Any private person may, and constables and justices must, interfere to put a stop to an affray.

The Indian Penal Code (sect. 159) adopts the English definition of affray, with the substitution of actual disturbance of the peace for causing terror to the lieges. The Queensland Criminal Code of 1889 (sect. 72) defines affray as taking part in a fight in a public highway or taking part in a fight of such a nature as to alarm the public in any other place to which the public have access.

Assault is a crime of violence against another person. In some jurisdiction, assault is used to refer to the actual violence, while in other jurisdictions (e.g. some in the United States, England and Wales), assault refers only to the threat of violence, while the actual violence is battery. Simple as-saults do not involve weapons; aggravated assaults do.

Assault is often defined to include not only violence, but any physical contact with another person without their consent. When assault is defined like this, exceptions are provided to cover such things as normal social intercourse (for example, patting someone on the back).

English law makes distinctions based on the degree of injury, between:

- common assault (which can be even the most minor assault);
- assault with actual body harm (ABH);
- assault with grievous body harm (GBH).

In many common law jurisdictions, the crime of battery involves an injury or other contact upon the person of another in a manner likely to cause bodily harm. Battery is often broken down into gradations for the purposes of determining the severity of punishment. For example:

- battery may include any form of non-consensual, harmful or insulting contact, regardless of the injury caused;

- Sexual battery may be defined as non-consensual touching of the intimate parts of another;

- Family violence battery may be limited in its scope between persons within a certain degree of relationship: statutes with respect to this offense have been enacted in response to increasing awareness of the problem of domestic violence;

- Aggravated battery is generally regarded as a serious offense of felony grade, involving the loss of the victim's limb or some other type of permanent disfigurement of the victim. As successor to the common law crime of mayhem, this is sometimes subsumed in the definition of aggravated assault.

Vandalism is the conspicuous defacement or destruction of a structure or symbol. It can be done as an expression of contempt, creativity, or both. Throughout history, the ritual destruction of monuments of a previous government or power has been one of the largest symbols showing the attempt at transition of power was normally expressed by erasing the name of the hated individual from inscriptions and removing or replacing statues or replacing just their heads after their death and subsequent disgrace. This is official vandalism.

Private citizens commit vandalism when they willfully damage or deface the property of others or the commons. Some vandalism qualifies as culture jamming or sniggling – it is artistic in nature as well as being carried out illegally or without the property owner's permission. Examples include at least some graffiti art and billboard liberation. Criminal vandalism is often a reaction against an alienating society or is corporate gang activity.

Though vandalism in itself is illegal, it is also an integral part of modern popular culture. Graffiti tags, designs, and styles of writing are common-place on clothing and are an influence on many of the corporate logos with which we are familiar. Many skate parks and similar youth-oriented venues are decorated with commissioned graffiti-style artwork, and in many others patrons are welcome to leave their own. There is still, however, a very fine line between vandalism as an art form, as a political statement, and as a crime.

1.3.4.10 Find in the text above the English equivalents for the following words and expressions. Make up your own sentences with them.

В общественном месте, частным образом, подлежащий уголовному преследованию, остановить драку, нарушение общественного порядка, встревожить общественность, угроза насилия, нападение при отягчающих обстоятельствах, социальные контакты, степень телесных повреждений, тяжкие телесные повреждения, определять строгость наказания, оскорбление действием, насилие в семье, нанесение увечья, очевидное разрушение символа, выражение презрения, политический вандализм, преднамеренная порча собственности, надписи и рисунки в общественных местах, отчужденное общество.

1.3.4.11 Correct the following statements if they are false.

- Affray is the fighting of two or more persons in private to the terror of the lieges.

- Neither private person nor constables must interfere to put a stop to an affray.

- Assault can be referred both to the actual violence and to the threat of violence.

- Aggravated assaults do not involve weapons.

- There is no difference between battery and assault.

- Mayhem and aggravated battery are misdemeanors.

- Being an integral part of modern popular culture, vandalism in itself is legal.

- Official vandalism has been one of the largest symbols showing the attempt at transition of power.

1.3.4.12 Put the verbs in brackets into the correct forms of Active or Passive Voice.

1) Affray is a misdemeanor, which (to punish) by fine and imprisonment.

2) Assault often (to define) to include not only violence, but any physical contact with another person.

3) Simple assaults (not to involve) weapons.

4) Battery often (to break down) into gradations for the purposes of determining the severity of punishment.

5) Battery may (to include) any form of harmful contact.

6) Vandalism can (to do) as an expression of contempt, creativity, or both.

7) Criminal vandalism (to carry out) illegally or without the property owner's permission.



8) Vandalism as an art form (to express) in graffiti art and billboard liberation.

9) Many parks in this town (to decorate) with commissioned graffiti-style artwork.

1.3.5 Project task:

Project activity

1.3.5.1 Divide into groups of 3–5 persons for making up a report about misdemeanor crimes in different countries.

1.3.5.2 Arrange the report with the help of the chart using different sources of information: Internet, TV, radio, newspapers, textbooks, etc.

Chart:

1) Country \_\_\_\_\_

2) Statistics on misdemeanors in the country \_\_\_\_\_

a) general rate of misdemeanors \_\_\_\_\_

b) misdemeanor types domain \_\_\_\_\_

3) Possible reasons for misdemeanor crimes \_\_\_\_\_

1.3.5.3 Present the report to your groupmates supporting it with video episode demonstration, power point aid accompanying, etc.

1.3.5.4 Questions for conclusive discussion

1) What crimes can be classified as “felonies”?

2) What are usual punishments for felony offences?

3) Do you think it is just and fair to be not eligible to vote and run for public office after having been imprisoned for felony offence?

4) Compare the crimes fallen under the classification of felonies in different countries and punishments usually given for them. Express your own opinion concerning the severity of state policy towards crime prevention.

5) Work in pairs or groups and create your own self-defense methodology for avoiding and preventing misdemeanor. What steps should be undertaken by a potential victim?

## 2 Felonies and misdemeanors

### 2.1 Punishment

#### 2.1.1 Elicitation:

What associations flash in your mind when you hear the word “punishment”?

#### 2.1.2 Discussion:

Answer the questions.

- A) In your opinion, what does “punishment” mean?
- B) What kinds of punishment do you know?
- C) How do you understand the purpose of punishment?
- D) What do you think about the principle “an eye for an eye and a tooth for a tooth”? Have you heard anything about Draco’s laws? Could those laws be applied for the modern society?
- E) Are you for or against capital punishment?
- F) What punishment do you think will exist in future?
- G) Is it a hard burden for a judge to decide whether to punish another person or not?

#### 2.1.3 Focus on lexis

2.1.3.1 Match up the words (1-6) with their definitions (a-f).

- 1) punishment
- 2) sentence
- 3) verdict
- 4. penalty
- 5. forfeit
- 6. judgment

- A) the decision given by the jury or judge at the end of a trial
- B) a person receives it after he/ she has been found guilty of a crime
- C) something that a person must give, pay or do because he/ she has done something wrong
- D) it is a decision made by a judge or by a court of law
- E) a way in which someone is enforced to answer for having done something that is against the law
- F) it is a synonym of the word “punishment”

2.1.3.2 Tick the words that mean any type of punishment. What for can such punishments be given?

- |                                       |                                       |
|---------------------------------------|---------------------------------------|
| <input type="checkbox"/> wage         | <input type="checkbox"/> running      |
| <input type="checkbox"/> fine         | <input type="checkbox"/> imprisonment |
| <input type="checkbox"/> present      | <input type="checkbox"/> death        |
| <input type="checkbox"/> confiscation | <input type="checkbox"/> swimming     |
| <input type="checkbox"/> restriction  | <input type="checkbox"/> caning       |
| <input type="checkbox"/> whipping     | <input type="checkbox"/> freedom      |
| <input type="checkbox"/> flying       |                                       |

2.1.3.3 Think over and decide what punishments can be given for breaking

- A) a tradition \_\_\_\_\_
- B) a custom \_\_\_\_\_
- C) a rule \_\_\_\_\_
- D) a law \_\_\_\_\_
- E) a code \_\_\_\_\_

2.1.3.4 Fill in the gaps with the most appropriate prepositions (of, to, for, with).

- a) Her assistant was accused... theft and fraud by the police.
- b) He was arrested and charged... committing a variety of offences.
- c) In 1995 he was convicted... murder and sentenced ... life imprisonment.
- d) They will consider whether or not he has been guilty... serious professional misconduct.
- e) I don't blame them... causing such unpredictable outcomes.
- f) He was condemned... life imprisonment.
- g) The vandals were imprisoned... 18 months.
- h) The woman will be confined... mental institution.
- i) Young people were arrested and detained... questioning.

2.1.3.5 Find the synonyms (from B) to the words (from A).

A incarceration, ban, punishment, jail, banishment, humiliation

B indignity, prohibit, prison, imprisonment, penalty, expulsion

2.1.3.6 Historical background:

The history of punishment.

For the most history punishment has been both painful and public in order to act as deterrent to others. Physical punishments and public humiliations were social events and carried out in most accessible parts of towns, often on market days when the greater part of the population were present. Justice had to be seen to be done.

A particularly harsh punishment is sometimes said to be draconian, after Draco, the lawgiver of ancient Athens. Draco's laws were shockingly severe, so severe that they were said to have been written not in ink but in blood. Under Draco's code death was the penalty for almost all criminal offences. But as the adjective Spartan still testifies, its wholly militarized rival Sparta was the harshest a state of law can be on its own citizens.

Punishment is the practice of imposing something unpleasant on a wrongdoer as a response to something unwanted that the wrongdoer has done. In psychological terms this is known as "positive punishment". "Negative punishment", on the other hand, is when something is removed from or denied to the punishee. A prisoner, for example, is both positively

and negatively punished. He has an unpleasant thing imposed on him and also his freedom is removed.

#### 2.1.3.7 Ask the lawyer

QUESTION: What are possible punishments for felonies and misdemeanors?

ANSWER: Punishment is based off of this system, and can result in either jail time, a fine, or both. The jail time for felonies is based off of their class.

Misdemeanors are also given jail time in accordance with their class.

Similarly, punishment for crimes consisting of fines are based off of the seriousness of the crime, and are determined by the court at your hearing. Our laws limit fines to certain amounts.

Note:

Please note that the punishment for your crime depends on your criminal record, or whether you've committed any crimes in the past. If you have a clean record [no crimes in your past] then you'll get an easier sentence. If you have a record [there are crimes in your past] then you'll likely get a more serious sentence.

Another important difference between a felony and a misdemeanor conviction is the impact that they will have on a person's future. When that person makes it out of jail and tries to get a job, a felony conviction will likely continue to haunt the criminal. Most employers want to know about all felony convictions – so if you are ever convicted of any felony, you would have to tell your employer. If you had just a misdemeanor, you would have some more privacy in this respect.

#### 2.1.4 Focus on reading

##### 2.1.4.1 Read the text ...

##### L Types of punishments

This is just a typology with some well-known examples. For a more exhaustive treatment follow the links, and for a more extensive list, use the category: punishments.

Judicial and similar, i.e. for crimes

- Socio-economical punishments:

finances or loss of income

confiscation

demotion, suspension or expulsion (especially in a strict hier-archy, such as military or clergy)

restriction or loss of civic and other rights, in the extreme even civil death

- physical punishments:

- corporal punishment (CP)

Though the words physical and corporal simply derive from the Latin and Greek words for body, CP is often used more specifically to refer only to various forms of painful beating on body parts (e.g. spanking on the buttocks), usually taking the form of whipping or caning with various implements, legal in some countries, banned in other countries, markings such as branding or mutilations such as amputation and castration; however it can be defined wider :

- capital punishment is the most extreme form of punishment as it ends all bodily functions for good (used by a substantial number of countries, ironically including some that declare mere beating inhumane);

- various uncomfortable positions, such as in too confined spaces or being tied down long in an unnatural position that puts muscles under increasingly painful stress;

- custodial sentences include imprisonment and other forms of forced detention (e.g. involuntary institutional psychiatry) and hard labor are in fact also physical punishments, even if no actual beatings are in force internally;

- forms of deprivation of sleep, food etcetera, though these are often unofficial or accessory;

- excessive physical efforts such as prolonged calisthenics, holding up a heavy object;

- banishment, restraining order;

- clinical castration for sexual assault is being tried in a few countries but may lead to charges of eugenics, since the individual is rendered infertile as a result;

- public humiliation often combines social elements with corporal punishment, and indeed often punishments from two or more categories are combined (especially when these are meant reinforce each-other's effect) as in the logic of penal harm.

2.1.4.2 Translate the words and word-combinations from Russian into English and complete the table, dividing them into the following groups of overtaken damages *таблица 3*.

fines, loss of income, demotion, suspension, expulsion, restriction, or loss of civic rights, corporal punishment, whipping, caning, branding, mutilations, capital punishment, custodial sentences, forced detention, imprisonment, beating, deprivation of sleep and food, prolonged calisthenics, banishment, restraining order, clinical castration, eugenics, public humiliation

Таблица 3

social	moral	financial	physical

2.1.4.3 Wordsearch puzzle

Find 16 words related to felonies and misdemeanors рисунок 4.

p	i	s	h	o	p	l	i	f	t	i	n	g
o	n	r	y	a	f	f	r	a	y	m	f	d
s	f	u	l	r	u	f	e	t	h	e	f	t
e	r	m	i	s	d	e	m	e	a	n	o	r
l	a	w	t	o	d	l	c	u	s	b	r	e
p	c	o	l	n	g	o	r	a	s	r	g	s
i	t	r	a	p	e	n	i	v	a	e	e	p
t	i	p	z	o	s	y	m	k	u	a	r	a
c	o	n	v	i	c	t	e	m	l	c	y	s
u	n	o	m	u	r	d	e	r	t	h	a	s

рисунок 4

2.1.4.4 Quiz

Match the criminal with the definition.

- 1) an arsonist      A. tries to enforce his political demands by carrying out
- 2) an assassinor threatening acts of violence; B. pretends or claims to be what he is not;
- 3) a deserter      C. makes money by dishonest methods, e.g. by selling worthless goods;
- 4) an embezzler      D. steals from his own company;

- 5) a forger      E. attacks and robs people especially in public places;
- 6) a fraud      F. sets fire to property;
- 7) a hooligan      G. kills for political reasons or reward;
- 8) a mugger      H. brings goods into one country from another illegally;
- 9) a poacher      I. hunts illegally on somebody else's land;
- 10) a racketeer      J. makes false money or documents;
- 11) a smuggler      K. a soldier who leaves the armed forces without permission
- 12) a terrorist      L. causes damage or disturbance in public places.

2.1.4.5 Divide the criminals listed above into two categories: felons and misdemeanants таблица 4.

Таблица 4

Felons	Misdemeanors

### 2.1.5 Project task:

#### Project activity

2.1.5.1 Divide into groups of 3–5 persons and decide what type of crime fighters (forensic scientist, judge, etc.) you are, answering the questions of the BBC poll.

2.1.5.2 Make up a short survey about the ways of felony/misdemeanor prevention from the viewpoint of forensic scientist, judge, etc. Present the whole project task to other groups.

1) You find someone's wallet on the street, do you... ?

- a) pick it up and take it to a police station
- b) look around to see if anyone is looking for a wallet, then pick it up and take it to the police station
- c) look for a name or address in the wallet and send it to them
- d) ask passers-by if they've dropped the wallet and take it to the police station
- e) take the money and drop the wallet in a bin

2) You've invited friends over for dinner, do you... ?

- a) reach for the recipe books and make a special shopping list of the ingredients you need
- b) wait until the day of the dinner and decide what to cook then
- c) try out a new recipe and hope you have the right ingredients
- d) check if they have any special dietary requirements and cook individual dishes for them accordingly

- e) look for a recipe that uses the food that you already have in the house
- 3) You've been told an embarrassing secret you didn't know about your best friend, do you ... ?
- a) think about it and maybe tell someone later
  - b) run and tell all your mutual friends
  - c) keep it to yourself, until later
  - d) think about it and tell a few select trusted friends
  - e) wonder why you're being told this
- 4) If you experience a problem at work, do you... ?
- a) discuss it with your colleagues and come to a solution
  - b) look carefully at the problem and then offer a solution
  - c) keep it to yourself, examine it carefully, then solve it
  - d) ignore it and come back to it later
  - e) come up with a solution immediately
- 5) If you were an animal you'd be a ... ?
- a) owl
  - b) bear
  - c) cat
  - d) wolf
  - e) eagle
- 6) Select the personality trait that most applies to you:
- a) practical
  - b) thoughtful
  - c) methodical
  - d) spontaneous
  - e) quick-thinking
- 7) You meet someone at a party for the first time, do you ... ?
- a) imagine what they're like
  - b) introduce yourself and find out what they're like
  - c) know what they're like already
  - d) watch how they behave then decide
  - e) ask your friends what they're like
- 8) You receive a parcel in the post with its address all smudged and illegible, do you... ?
- a) try and read the smudged handwriting
  - b) check the postmark to see where it came from
  - c) rip it open and see what it is
  - d) ask your housemates if they're expecting a parcel, then open it with them
  - e) leave the parcel where it is and see if anyone else claims it



9) You think you hear a noise outside your house in the middle of the night, do you... ?

- a) rush out and investigate
- b) look out your windows for signs of a burglar, then decide
- c) make some noise, turn on lights, then check outside
- d) call the police and check the doors are locked
- e) check doors and alarms system, then look outside

10) You left some cold pizza in the fridge and now it's missing, do you... ?

- a) check your house for evidence of crumbs or a dirty plate
- b) chat with your housemates whilst smelling their breath
- c) mention it to your housemates individually and gauge their

reaction

- c) call a house meeting and ask for the guilty party to step forward
- d) rush around accusing everyone of stealing it

### 3 Crime reports

#### 3.1 Elicitation:

What associations flash in your mind when you hear the phrase “crime news”?

##### 3.1.1 Discussion:

1) Do you think that mass media play an important role in highlighting the situation connected with different crimes?

2) What effect does usually crime reports have on the public? Is the effect predominantly negative rather than positive?

3) Are crime reports usually exaggerated?

4) What should journalists first take into consideration before writing and issuing crime reports? Do they need experts' recommendations?

5) Don't you think that being instructed a journalist can not present the information objectively?

##### 3.1.2 Focus on lexis:

###### 3.1.2.1 Find the explanations (a - l) for the words (1 - 12)

1) daily

7. freelance

2) tabloid

8. poll

3) broadsheet

9. article

4) circulation

10. ads

5) headline

11. column

6) editor

12. feature

a) the number of copies a newspaper sells each day

b) the person who decides what goes in a newspaper or magazine

c) the reporter that work for himself and is not employed by the newspaper

d) longer article about special subject

e) newspapers smaller in size

f) the title of a newspaper report printed in large letters

g) a survey in which people are asked their opinions about about something

h) a piece of writing published in a newspaper or magazine

i) newspapers larger in size

j) newspapers that come out every day

k) a section that is always written by the same person or about the same topic

l) advertisements

3.1.2.2 Replace the words highlighted in the sentences by their synonyms from the box. Pay attention to the relevant verb forms.

to ban	to dispose of	to vow
to abduct	to tackle	to buckle under
to boost	to flag down	to enhance
to stamp out	to apprehend	to impose

1) The law includes measures that prohibit smoking in all public offices.

2) The bill will broaden police powers to stop any suspicious car.

3) Police officers should be ready to deal with different current problems.

4) The members of the Justice Committee decided to put an end to knife crimes.

5) John denied to kidnap the daughter of Mr. Coverson.

6) The murderer tried to get rid of the witnesses.

7) Remember that it is dangerous to halt the car somewhere in an abandoned place when somebody waves you to stop.

8) The most senior judge in England and Wales says there is a strong case for a review of whether to appoint life sentences for all murders.

9) Home Secretary David Blunkett has promised that murderers sentenced to "whole life" prison tariffs will not be freed.

10) The recession of the early 1980s triggered the rising murder rates of the past 25 years.

11) It was allowed to arrest the suspected woman and put her in custody.

12) Public opinion had greatly influenced on the members of the government and they bent under its weight.

### 3.1.2.3 Historical background:

The word "newspaper", as now employed, covers so wide a field that it is difficult, if not impossible, to give it a precise definition. By the English Newspaper Libel and Registration Act of 188, it is defined as any paper containing public news, intelligence or occurrences, or any remarks or observations therein printed for sale, and published periodically or in parts or numbers at intervals not exceeding twenty-six days; and the British Post Office defines a newspaper as any publication to summarize the wording printed and published in numbers at intervals of not more than seven days, consisting wholly or in part of political or other news, or of articles relating thereto or to other current topics, with or without

advertisements. In ordinary practice, the newspapers, as distinguished from other periodicals, mean the daily or (at most) weekly publications which are principally concerned with reporting and commenting upon general current events.

So far as very early forms of what we now recognize as corresponding to a newspaper are concerned, involving public reports of news, the Roman *Acta Diurna* and the Chinese Peking Gazette may be mentioned here, if only on account of their historical interest. The *Acta Diurna* (Daily Events) in ancient Rome (lasting to the fall of the Western Empire), were short announcements containing official intelligence of battles, elections, games, fires, religious rites, &c., and were compiled by the actuary officers appointed for the purpose; they were kept as public records, and were also posted up in the forum or other places in Rome, and were sometimes copied for despatch to the provinces.

*Acta Diurna* = произошедшее за день

#### 3.1.2.4 Ask the lawyer

QUESTION: When and where did the first crime columns appear?

ANSWER: The New York Sun, one of the first penny press newspaper first included a daily police court news column in 1833 and it was really very popular. Spurred by the success of the penny press a number of weeklies soon emerged. The most famous of which was the National Police Gazette. As most other newspapers at the beginning of the twentieth century, the National Police Gazette flourished focusing on corruption, forgeries, sex scandals, sports and show business.

Among early leading incidents in the history of The Times a few may be more particularly mentioned. In 1840 the Paris correspondent of the paper (Mr. O'Reilly) obtained information respecting a gigantic scheme of forgery which had been planned in France, together with particulars of the examination at Antwerp of a minor agent in the conspiracy, who had been there, almost by chance, arrested. All that he could collect on the subject, including the names of the chief conspirators, was published by The Times on the 26th of May in that year, under the heading "Extraordinary and Extensive Forgery and Swindling Conspiracy on the Continent" (Private Correspondence). The project contemplated the almost simultaneous presentation at the chief bank-ing-houses throughout the Continent of forged letters of credit, purporting to be those of Glyn & Company, to a very large amount; and its failure appears to have been in a great degree owing to the exertions made, and the responsibility assumed, by The Times. One of the persons implicated brought an action for libel against the paper, which was tried at Croydon in August 1841, with a verdict for the

plaintiff, one covering the damages. A subscription towards defraying the heavy expenses which The Times had incurred was speedily satisfied.

Some other facts:

- Yellow Journalism (1890s) gave space to scandals, disasters, gossips and crimes (particularly personal violent crimes). Large headlines and melodramatic depictions of heroes and villains grasped the readers' attention;

- The factual reporting of crime did not change much until the rise of investigative journalism in the 1960s.

Hierarchy of Crime News and Reports

- Lowest-crime stories that serve as a filler;
- Secondary crime stories that are potentially important;
- Primary are those stories given top billing;
- At the very top are the super primary crime stories involving celebrities or major social or political figures.

The vast majority of crimes never become news or reports. Less than 1 % ever appears in the newspaper, even less than that on TV.

3.1.3 Focus on press reading:

3.1.3.1 Crime Report (Article) Presentation

3.1.3.2 The steps of crime report presentation таблица 5.

Таблица 5

Introduction	Main Part	Conclusion
<p>Give the background of the problem mentioned in the report (article):</p> <ul style="list-style-type: none"> <li>- situation in the world (in the country)</li> <li>- experts' opinions, viewpoints, quotations about the problem or situation</li> <li>- popular sayings, public opinion about the situation,</li> <li>etc.</li> </ul>	<p>Summarise the information given in the report (article):</p> <ul style="list-style-type: none"> <li>- the main idea or the main problem of the report (article)</li> <li>- event (time, place, people involved, etc.)</li> <li>- different points of view</li> <li>- some other details (facts, statistic data, etc.)</li> </ul>	<p>End up with a general conclusion:</p> <ul style="list-style-type: none"> <li>- final results of the event(s)</li> <li>- comments, suggestions, assessment, recommendations, future developments, personal opinion</li> </ul>

!!! NOTE: Remember that the plan for crime report presentation is very flexible. You may choose some elements of it or add new ones according to your own logical way.

### 3.1.3.3 Linking devices

!!! NOTE: While presenting a crime report (article) you may use the following linking devices to make your speech more colourful, vivid and well-organised.

1) To introduce the report (article):

The title/ headline of the report (article), it was published in, it is made by, it is written by, it is prepared by ... with the help of ...

2) To list points:

Firstly, to begin with, in the first place, to start with, secondly, thirdly, finally

3) To add more points on a topic:

What is more, furthermore, also, apart from this/ that, in addition to, moreover, besides, I intend to say that, I'd like to point out, people say/ believe/ consider

4) To list advantages/ disadvantages:

One/ the main/ the greatest advantage/ disadvantage of ... is ...

5) To make contrasting points:

Although, however, nevertheless, in spite of, but, while, despite, even if, even though, at the same time

6) To make partly correct statements:

To a certain extent, to some extent, in a way, in a sense, partly it is correct

7) To express balance:

On the one hand, on the other hand, whereas

8) To express cause:

Because of, owing to, due to, for this reason

9) To express effect:

Therefore, thus, as a result, consequently, so, as a consequence

10) To refer to different sources:

According to, with reference to, concerning, relating to, connected with

11) To emphasise what you say:

Clearly, obviously, of course, needless to say, in particular, beyond all doubts, frankly speaking, I can't disguise the fact that

12) To express personal opinion

In my opinion/ view, to my mind/ way of thinking, personally I believe, it strikes me that, I feel very strongly that, I'm inclined to think/ believe that, it seems to me, as far as I know/ I am concerned, I suppose/ guess

13) To express reality:

In fact, actually, as a matter of fact, in practice, the fact of the matter is that

14) To conclude:

In conclusion, to sum up, summing it up, to finish with, to end with, taking everything into account, after proper consideration, on the whole, in general, as I have said, as was previously stated

#### 3.1.4 Article I

3.1.4.1 Express your opinion following the general tips for discussion.

General tips for discussion:

- Do you think the DNA test is an effective way of identifying people? Can there be any mistakes?

- Should we trust those who flag down somewhere in abandoned place? What is necessary to remember before stopping your car and going out?

- Do you believe that sometimes all circumstances can be against an accused person but in reality he/ she hasn't committed any crime?

- Is it difficult to find the truth in the court procedure?

3.1.4.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

3.1.4.3 Vocabulary note:

DNA = a chemical substance that is found in the cells of all living things and contains genetic information (DNA test, quiz – scientific examination of someone's DNA) CCTV = close-circuit television (it is one that operates within a limited area)

pick-up truck = a small truck with low sides that can be easily loaded and unloaded

#### 3.1.4.4 Falconio suspect quizzed on DNA

The man accused of murdering Briton Peter Falconio in Australia has said he does not know how his DNA got on the clothing of Mr. Falconio's girl-friend.

Bradley Murdoch, 47, admitted running drugs and said he was hundreds of miles away at the time of the alleged attack. He denies murdering and abducting Mr. Falconio's girlfriend, Joanne Lees, near Alice Springs. Mr. Murdoch also told the Darwin court it was not him or his vehicle caught on CCTV in Alice Springs that night.

He said he had been in Alice Springs that day but left at 15.30 local time to run cannabis across central Australia. Mr. Murdoch said he was more than 370 miles (600km) away at around 20.00 local time, when the alleged attack took place.

The defendant could not explain how his DNA profile was found in a spot of blood on a T-shirt worn by Ms Lees on the night of the alleged attack. "I know I went through Alice Springs. I don't know whether I crossed their paths or not," he told the Northern Territory Supreme Court. He

admitted changing his appearance and his vehicle after the trip, but it was necessary for drug running.

Nevertheless, the prosecution had claimed Mr. Murdoch tried to disguise his pick-up truck after shooting 28-year-old Mr. Falconio on the Stuart Highway, north of Alice Springs.

After taking the stand for the first time, Mr. Murdoch and another man, James Hepi, regularly ran "large quantities" of cannabis across Australia, stashed in a spare fuel tank on the back of his truck. The defendant said he had since had a disagreement with Mr. Hepi, who has testified against him.

Mr. Murdoch denied Mr. Hepi's claims that he talked about ways of disposing of a body. He did admit owning two guns which he carried for protection while transporting drugs.

Ms Lees, 32, of Brighton, told the court earlier in the trial she and Mr. Falconio had been flagged down by Mr. Murdoch while they were driving. He is then alleged to have shot the backpacker and bundled his girlfriend into the back of his van, binding her in makeshift handcuffs.

Ms Lees said she later escaped and hid in the undergrowth for five hours until her abductor gave up searching for her and left. The body of Mr. Falconio, from Huddersfield, West Yorkshire, has not been found.

The trial continues.

3.1.4.4.1 Give your version of the incident.

Whom do you believe? What happened in reality? Why the body of Mr. Falconio has not been found?

3.1.4.4.2 Complete the table.

What crimes are mentioned in the article? What categories can they be referred to ("treason", "felonies" or "misdemeanors")? What punishment would you give for these crimes? (see Unit II, section "Ask the lawyer")

таблица 6.

Таблица 6

Category; type of crime	Punishment	Prove your viewpoint
...	...	...



### 3.1.5 ARTICLE II

3.1.5.1 Express your opinion following the general tips for discussion.  
General tips for discussion:

- All criminals are perverse people! Do you agree with it? What do you think about the origins of criminality? Is it inborn or acquired?
- What steps can society take to cope with crime?
- Do you know what police techniques and tools are used in crime detection?
- What technological advances have been made in police work re-cently? Are they effective enough to find a wanted person?

3.1.5.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

Vocabulary note: e-fit = photofit stud = an earring

E-fit of knifeman driver

Police have issued an e-fit of a knife-man who stabbed a woman in Suffolk. Suffolk Police fear the attacker, who stabbed the woman from Sudbury in the stomach late on Thursday, may strike again. The woman, who has not been named, underwent a three-hour operation in hospital following the incident near Great Cornard, Suffolk, late on Thursday.

On Sunday, Detective Inspector Mike Bacon, of Suffolk Police, called for public help to catch the knifeman. "This is a despicable offence and all apparently over an alleged driving misdemeanor. Fortunately the woman is making a good recovery and is in a stable condition and should be released from hospital in the next few days. However, this does not lessen the severity of the offence and our determination to apprehend the offender. She has been extremely brave after what must have been a truly traumatic experience and has been able to provide a good description of her offender to enable us to draw up an e-fit. I would urge you to take a good look at this and take time to think about whether you may know or recognize this man. He may live near you or perhaps he is one of your work colleagues. He may have come home on the night of the attack and may have been acting suspiciously, perhaps a bit withdrawn or quiet. He may even have had small amount of blood on him or his clothing. There is a chance he could strike again and we need information from the public."

Over the weekend police said that the woman's condition was improving. It was said the woman was driving her Ford Focus car along an isolated road when she was flashed at by a vehicle following her. She got out of her car and had words with the following driver who then stabbed her in the stomach with a knife. Her attacker, who she described as a white man in his early 40s, drove away. The attacker is described as being about 5ft 9ins,

of medium build wearing a stud in his left ear.

### 3.1.5.3 Complete the table.

What crimes are mentioned in the article? What categories can they be referred to (“treason”, “felonies” or “misdemeanors”)? What punishment would you give for these crimes? (see Unit II, section “Ask the lawyer”)  
таблица 7.

Таблица 7

Category; type of crime	Punishment	Prove your viewpoint
...	...	...

### 3.1.6 Article III

#### 3.1.6.1 Express your opinion following the general tips for discussion.

General tips for discussion:

- There is no room for capital punishment in a civilized society. Do you agree with it?

- Should punishment be painful? How should it be organized?

- Is there any difference between physical and corporal punishment?  
(see Unit II, text “Types of punishment”)

- Don't you think that such corporal punishment as hand amputation (that still exists in some countries) is rather harsh and bloodcurdling for civilized world?

3.1.6.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

#### Hand amputation in Nigeria

The authorities in the Nigerian north-western state of Sokoto have amputated the right hand of a 30-year-old man as punishment for stealing a goat, worth about \$40.

This is the third such amputation to take place since 11 states in northern Nigeria began introducing strict punishments based on Islamic Sharia law two years ago. Officials in the northern Nigerian city of Kano said the punishment was carried out on Friday in a humane manner at a local hospital. But why this particular man should have had his hand cut off for a relatively minor misdemeanor is unclear. Although harsh punishments, including being stoned to death, are technically allowed against Muslims for certain crimes under Sharia law, recent eyewitness reports suggest Islamic judges have tended to be lenient.



рисунок 5

Many northern Nigerian communities include a significant proportion of non-Muslims who are bitterly hostile to Sharia law, and although the authorities insist that non-Muslims are unaffected by Sharia courts, this is disputed.

The general air of tension across northern and central Nigeria has helped fuel several weeks of inter-communal violence, in which an unknown number of people have been killed рисунок 5.

### 3.1.6.3 Complete the table.

What category the theft of a goat can be referred to (“treason”, “felonies” or “misdemeanors”)? What punishment would you give for this crime? (see Unit II, section “Ask the lawyer”) таблица 8.

Таблица 8

Category; type of crime	Punishment	Prove your viewpoint
***	***	***

### 3.1.7 ARTICLE IV

#### 3.1.7.1 Express your opinion following the general tips for discussion.

General tips for discussion:

- Is there a drug problem in your country?
- Why do you think people are drawn to taking drugs?
- Do you think there's a relationship between drug use and crime?
- Are people punished for drug use?
- Do you think there should be any difference made between those who use drugs and those who sell drugs, and what would be a suitable punishment in each case?
- What is your opinion about a wide spread viewpoint that all creative people are inclined to use drugs?

3.1.7.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

Vocabulary note:

squeaky clean = somebody who lives a very moral life and has never done anything wrong

Police probe Whitney drugs claim

Authorities in Hawaii are considering whether to charge pop superstar Whitney Houston after she was allegedly found in possession of a quantity of marijuana.

Hawaii County Prosecutor Jay Kimura said he would wait for the results of a police investigation before deciding whether to take the matter further. He said the most likely charge would be promoting a detrimental drug, an offence which could carry a prison sentence of up to 30 days and a \$1,000 (&600) fine.

Houston was stopped at Keahole- Kona International Airport security checkpoint while on her way to board a United Airlines flight to San Francisco. During a search of her bag, a security officer allegedly found the marijuana and seized the bag. The Hawaii Tribune-Herald of Hilo reported that 15.2 grammes of marijuana were found. Airport security officers, who can only arrest passengers for crimes related to airport security, told her to stay with them until police arrived, police said.

But Houston left the scene and boarded her flight, which departed about a half hour before police arrived, according to police spokesman William Donham.

Prosecutor Jay Kimura said his office typically does not pursue mainland suspects who are charged with petty misdemeanors such as marijuana possession. But he said Houston could be served with a summons if she ever returns to the islands and could be arrested if she ignores it. Once squeaky clean Houston has been one of the most successful recording artists of the 1980s and 1990s, and her current album "My Love Is Your Love" is nominated for four Grammy awards at next month's ceremony. She has also starred in films, most famously 1992's "The Bodyguard", and 1995's "Waiting To Exhale".



рисунок 6

A cousin of soul legend Dionne Warwick, she had a squeaky clean image until she married rap star Bobby Brown in 1992. Their marriage has been the source of continued rumours, while Brown had had several brushes with the law. The couple have also has a previous run-in with the Hawaii authorities. In 1997, Honolulu police investigated a report that Brown slapped Houston in the face during a quarrel in a car park. Houston and Brown have one child, Bobbi Kristina, who was born in 1993 рисунок 6.

### 3.1.7.3 Complete the table.

What crimes are mentioned in the article? What categories can they be referred to (“treason”, “felonies” or misdemeanors”)? What punishment would you give for these crimes? (see Unit II, section “Ask the lawyer”)  
таблица 9.

Таблица 9

Category; type of crime	Punishment	Prove your viewpoint
...	...	...

### 3.1.8 Article V

#### 3.1.8.1 Express your opinion following the general tips for discussion.

General tips for discussion:

- Do you think that nuclear weapon is easy to be made if somebody knows the technology?

- Is it difficult for authorities to spot and arrest those who work on nuclear black market secrets?

- Should such serious cases as nuclear components trading be tried in international court or it is just an internal affair of the countries?

- Do you find the policy of American, British and Russian intelligence services to be successful and efficient in penetrating the illegal nuclear weapons network?

- Do you think that all countries in the world can solve the problem by signing the international protocol of cooperative work on fighting with nuclear components trading?

3.1.8.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

Vocabulary note:

MI6 = in Britain, the government organization that secretly sends people to other countries to get important military and political information about them

intelligence officers = officers that collect information about the secret plans and activities of a foreign government, enemy, etc.

MI6 seized computers from British suspect

Richard Norton-Taylor, Owen Bowcott, and Ian Traynor in Zagreb

British and French intelligence officers seized computers from the

home of a British businessman named as a central suspect in the secret network supplying Libya, Iran and North Korea with nuclear equipment, the Guardian has learned.

They were taken last June from the French home of Peter Griffin by agents trying to penetrate the black market in nuclear secrets established by the disgraced Pakistani scientist Abdul Qadeer Khan.

Yesterday the Guardian revealed that Mr. Griffin and his son Paul had emerged as key suspects in the international investigation because of their Dubai company's alleged involvement in a shipment of nuclear components from Malaysia to Libya last October.

They deny being involved and insist that they had been framed. They said yesterday that they had cleared all their exports with the British government.

Speaking from Dubai, Paul Griffin said their company, Gulf Technical Industries (GTI), had good relations with the Department of Trade and Industry (DTI). "We never had any problems with it," he said. "I spoke to the British embassy here again and they said they know nothing about these allegations. It's damaging my business. The investigating authorities should be looking at Malaysia, it's nothing to do with us."

His father was reported in the New York Times as having been checked in London and that his exports to Pakistan were officially approved. Mr. Griffin, who lives in France, also denied that their company had been involved in shipping centrifuges for enriching nuclear fuel to Libya.

The DTI said it could not talk about individual cases. Its spokeswoman said that exports from Britain were carefully monitored, but those from British-owned companies overseas were not regulated. The law governing British companies operating abroad is due to change soon.

The foreign secretary, Jack Straw, yesterday praised the role of British and US intelligence in penetrating and dismantling the illegal nuclear weapons network established by Dr Khan.

"What we had here was somebody who had made an operational bomb, who knew all the technology and was selling this on the black market, basically to anybody who could pay the price. The only relative reassurance that I can provide is that there are relatively few people with the skills and experience and access to nuclear material and equipment that Dr Khan had over many years," he said at a press conference in London.

British officials familiar with the investigation said the network involved "crooks, governments and money-laundering".

Mr. Straw said that Britain and the US would push for the International Atomic Energy Agency (IAEA) to be strengthened. Britain would also

urge more countries to sign the international protocol allowing IAEA officials to conduct more unannounced inspections of their nuclear facilities.

### 3.1.8.3 Complete the table.

What crimes are mentioned in the article? What categories can they be referred to (“treason”, “felonies” or “misdemeanors”)? What punishment would you give for such crimes? (see Unit II, section “Ask the lawyer”)

таблица 10.

Таблица 10

Category; type of crime	Punishment	Prove your viewpoint
***	***	***

### 3.1.9 Article VI

Ask the lawyer

QUESTION: Are there any alternatives to imprisonment?

ANSWER: The electronic monitoring system or home detention curfew appears to be an alternative to imprisonment and serves to alleviate both prison overcrowding and the financial burden of incarceration. The electronic monitoring system generally requires the offender to wear an electronic bracelet around his or her ankle or wrist. The monitoring is usually of two types: passive or active. The passive form provides for random telephone monitoring by authorities in order to confirm that it is the specific offender who is present and responding. In contrast, an active system provides continuous information as to whether an individual is within the range, generally 150 to 200 feet, of a transmitter located within their residence. This is commonly referred to as continuous monitoring.

3.1.9.1 Express your opinion following the general tips for discussion.

3.1.9.2 General tips for discussion:

- What is your opinion about electronic monitoring system? Do you find the early release scheme an effective way of criminals rehabilitation and prison overcrowding resolution? Is such a measure relevant to all criminals?
- Should public opinion be taken into account in case it is necessary to decide whether to allow a prisoner to be earlier released or not?
- What punishment would you give for a person who covered the murderer?

- What circumstances can it depend on?

3.1.9.3 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

Vocabulary note:

lynch mob = angry attitude towards someone who has done something bad or wrong

Carr stays in jail as critics attack lynch mob justice Alan Travis, home affairs editor

(The Guardian)

The Home Office was accused of "opening the door to trial by tab-loid" yesterday after it rejected the application of Maxine Carr, the former girlfriend of the Soham killer Ian Huntley, for early release. She will not be given a second chance to apply and will remain in Holloway prison until May at the earliest before being released to an address where she can be protected from vigilante attacks.

Martin Narey, chief executive of the new National Offender Management Service, said he took the decision because of the risk to her safety if she returned to live in Grimsby. He said that, in view of "the huge adverse publicity" her possible release had already attracted, it would undermine public confidence in the early release scheme if she left prison so soon after the trial.

Carr, 26, was sentenced in December to three and a half years for conspiring to pervert the course of justice after her boyfriend Ian Huntley had murdered Holly Wells and Jessica Chapman. She has been in prison since August 2003, and became eligible for early release in January on the recommendation of her prison governor. But the prisons minister, Paul Goggins, announced that the rules were being changed so that high-profile cases could be referred to Mr. Narey for a final decision.

The governor of Holloway, Ed Willets, approved her request to be released with an electronic tag on the home detention curfew (HDC) scheme. But Mr. Narey overturned the decision yesterday.

"Although not charged with murder, your offence was considered so closely related to the events surrounding the murder of the two girls and the police investigation that followed that you were tried jointly with Ian Huntley," he said in his letter to Carr. "Your conviction for conspiring with Ian Huntley to pervert the course of justice connects you indelibly with this case and with the public outcry that has accompanied it. For this reason the possibility of your early release on HDC has attracted, and continues to attract, huge adverse publicity. I have therefore concluded that for the above reasons your release on HDC, so soon after the trial has ended, would



undermine public confidence in the HDC scheme."

Carr's solicitor, Lewis James, said they were disappointed, adding: "We are in the process of considering the reasons for his decision before making any further announcement as to Miss Carr's future intentions."

Canon Michael Hunter, rector of St James parish church in Grimsby, said it was a sad day for natural justice and added that her return to the town would have caused problems but she should have been allowed to do so. "We ought to be absolutely clear that Maxine Carr had nothing to do with the murder of Holly and Jessica and her only crime was to lie to the police and stand by her partner. I think it would seem the lynch mob mentality within public opinion has prevailed and the Home Office has buckled under its weight."

Juliet Lyon of the Prison Reform Trust said the decision created a dangerous precedent which made nonsense of the carefully conducted risk assessments involved in the scheme and opened the door to trial by tabloid.

So far 3,500 offenders have been released up to 135 days early under HDC.

Mr. Goggins urged prison governors this week to make greater use of it, to ease prison overcrowding, and promised that ministers would back their judgment.

#### 3.1.9.3 Role-play.

Take part in the TV-show "Justice or Prejudice" acting as the people invited to the show and prove your viewpoint.

a) Martin Narey, chief executive of the new National Offender Management Service

b) public representatives

c) TV-show conductors

d) independent lawyers

e) experts supporting electronic monitoring system

f) Maxine Carr

g) Lewis James, Carr's solicitor

h) prison governor

i) Paul Goggins, the prisons minister

j) Ed Willets, the governor of Holloway

k) Canon Michael Hunter, rector of St James parish church in Grimsby

l) Juliet Lyon, the Prison Reform Trust

#### 3.1.10 Article VII

3.1.10.1 Express your opinion following the general tips for discussion.

General tips for discussion:

- Do you think that copyright piracy is a crime? What is your attitude to

the situation we have today? Is there any sense to fight copyright piracy?

- There is such a legal document as the Digital Millennium Copyright Act in the USA that has some certain restrictions whereas in other countries these restrictions don't work due to local laws. How can the contradictions concerning copyright laws be decided between different countries? What should we consider to be copyright law breaking?

- Do we have any copyright laws in Russia? What are the main restrictions according to these laws?

3.1.10.2 Read the article and make its presentation (follow the steps of crime report presentation and use necessary linking devices).

Vocabulary note:

IP = Intellectual Property

caching = an area of a computer's memory for storing information that is regularly needed (кэширование)

barney = a loud argument

clause = an article of a legal document    alignment = matching with

exemption = exception

intrinsic = basic

IP law headed for legal barneys Karen Dearne

The "Mickey Mouse" extension to copyright and potential Internet Service Provider (ISP) liability for infringements are key concerns in a generally good outcome for information technology, local players say.

Industry groups expressed caution, saying they needed to see more detail before embracing the Free Trade Agreement. Most contentious is the so-called "harmonization" of Australia's intellectual property laws to allow stronger protection and enforcement of largely US-owned IP rights. This includes the extension of copyright – dubbed the Mickey Mouse clause when US Congress amended the law to prevent the Disney character passing into the public domain – and "alignment" with the tough US Digital Millennium Copyright Act.

Under the Digital Millennium Copyright Act, ISPs are held liable for user infringements of copyright material, and copyright owners can force removal of content by serving take-down notices on providers.

The way the Digital Millennium Copyright Act has worked in practice "is not necessarily a role model for the rest of the world", said Peter Coroneos, chief executive of the Internet Industry Association. "It has resulted in a lot of litigation, with disclosures of customer information in some cases where people subsequently turned out not to be infringers," he said. "We would have concerns about using a system that took away from us the right to manage these issues at an industry level through codes of practice."

Internet Industry Association was concerned also by the apparent threat to the caching exemption for ISPs.

"Caching has become intrinsic to ISP operations in Australia," he said. "We fought very hard for recognition that ISPs are not benefiting from the content. The situation in America is very different, because much of the content is hosted in America. Obviously, ISPs here don't want to have to drag stuff across telecommunication cables every time there's a new request to access the same material."

Subjecting caching to monitoring and removal orders would threaten its viability, pushing down internet speeds and pushing up download costs for local internet users.

Mr. Coroneos said that overall, however, the Internet Industry Association was pleased the agreement had been reached.

"We are confident our relationships with the Federal Government remain strong enough to work through our concerns in the coming months," he said. Meanwhile, Australian Information Industry Association (AIIA) chief executive Rob Durie said the AIIA was "broadly comfortable".

"Our quick take is that the Free Trade Agreement looks pretty positive for the information technology industry," he said. "In particular we welcome the access it will provide to the US government market. It also seems we have been able to retain our minimum participation provisions that ensure them we can get access to local government contracts. Basically, we don't appear to have traded anything off."

3.1.10.3 Divide into groups of 2-5 persons. Search for extra information about IP laws in different countries (choose any country you like). Take part in the conference representing the delegations of the countries.

Suggested plan:

- First official IP documents and laws, their targets
- The main laws today
- Experts and public estimation of IP laws efficiency
- Your own viewpoint

3.1.11 Brush up the unit

3.1.11.1 Expand the idea looking through all the texts concerning felony crimes.

1) The English Newspaper Libel and Registration Act of 188 defines the word "newspaper" as ...

2) First newspapers appeared in ...

3) One of the early leading incidents in the history of The Times was related to ...

4) All crime news and reports can be divided into four types...

- 5) The vast majority of crimes...
- 6) DNA test is ...
- 7) E-fit is usually made to ...
- 8) Corporal punishment can include such hair-raising forms as ...
- 9) MI6 is known as ...
- 10) The electronic monitoring system generally requires the offender...
- 11) The passive form of the electronic monitoring system provides for

- \*\*\*
- 12) HDC is the abbreviation for ...
  - 13) US Congress amended the law...
  - 14) IP laws cause...

3.1.12 Project task

3.1.12.1 Project activity

3.1.12.2 Write an article on any category given and present it to your groupmates.

## 4 Texts for reading

### 4.1 Law in historical perspective

American law is deeply indebted to the English common law. Laws began to be written in England as early as 680 A. D. Eventually, English law came to a combination of tribal rules, Roman law, and the customs of invaders from northern France, Scandinavia, and what was later to become the modern state of Germany.

When the Normans invaded England from France in the eleventh century, they found among the defeated Anglo-Saxons a well-developed and workable system for maintaining public order and administering justice. The system had evolved over a lengthy period and was based on a body of common law derived from the customs of collective experience of Anglo-Saxons society.

A principal feature was its reliance on precedents to continually refine and develop suitable legal responses to meet the needs of a growing and dynamic society.

The Norman rules, William the Conqueror imposed his own representatives on the existing system to consolidate his power and authority. Under the royal justices appointed by William, state law became common practices of the realm and was common to all of England. Common law was firmly embedded in custom and tradition, but it continued to evolve through the process of judicial decision making.

Common law is judge-made law, molded, refined, examined and changed in a collection of actual decisions handed down from generation to generation in the form of reported cases. Judges drew their decisions from existing principles of law, which reflected the living values, attitudes, and ethical ideals of the English people. In practice, these judges relied on their own past actions, which they modified under the pressure of changing times and changing patterns of litigation. (Friedman, 1973)

Civil law derived from Roman antecedents and even earlier attempts by Sumerian and Babylonian societies to provide formal rules for human conduct. Nearly two millennia before the birth of Christ, a Babylonian monarch named Hammurabi formulated a code that enunciated a series of offences and accompanying penalties. The historical significance of the code of Hammurabi rests in its efforts to standardize the relations between crime and punishment. From such beginnings, civil law evolved as a system based on written and legislated codes.

#### 4.1.1 Law in historical perspective

American criminal law combines features of both civil and common law in that it includes both written codes and judge-made law based on precedents.

Statutory law – that is, statutes enacted by state legislatures and the Congress - is the major source of criminal law in the United States. These laws are usually compiled in codes that sort or classify statutes under separate headings. State codes are usually subject to revision at annual legislative sessions. The criminal laws of any state are found in the state penal code. Thus to find out how Florida defines the crimes of kidnapping and indecent exposure, and the penalties imposed for them, you would look in the newest version of the Florida Penal Code, as provided in the Florida Statutes Annotated §§ 787.01 and 800.02.

As an offshoot of statutory law, administrative law is comprised of rulings by government agencies at the federal levels. The legislative or executive branch invests a body such as a board of health with the authority to establish regulations governing specific policy areas (e.g. social problems or safety and health standards). Although much of the content of administrative law is not targeted directly at criminal behavior, direct violations of the rules of certain government agencies are dealt with in criminal courts.

#### 4.1.2 Solicitors

Although the United Kingdom shares one government, it has several legal systems. Both Northern Ireland and Scotland have separate laws, judiciaries and legal professions to those in England and Wales.

Within England and Wales the legal profession is divided into two main branches: solicitors and barristers. Solicitors make up the majority of all lawyers in the United Kingdom. They are the principal advisers on all matters of law to the public and undertake most litigation in the courts. It is through solicitors that most foreign clients receive legal services.

Solicitors are members of an independent legal profession. There are over 66,000 practising solicitors in England and Wales, all of whom have met high standards of education and training, and most abide by strict codes of conduct laid down by their professional body, the Law Society.

The role of solicitors is to provide legal services, including representation and pleading in court, to the general public, business, other professions and foreign clients. Their first duty is to their client. They are their client's representatives in all legal business and must act in their client's interest. That is why their rules of conduct include: an obligation to cease acting if a conflict of interest arises: an obligation to keep client details confidential (not even an address may be disclosed without the client's consent): an obligation to keep clients money in a separate account: an obligation to honour undertakings even if not legally enforceable. The only exception to this duty to act on the client's behalf is

when it conflicts with a solicitor's duty to uphold justice as an "Officer of the Supreme Court". Clients can rely on their solicitors, therefore, to give objective and confidential advice.

There are solicitors' offices in every town of England and Wales. They are first point in contact for the public when looking for legal advice, including work often performed by notaries in other countries, for instance transfers of real property: drawing up contracts, and handling successions. Solicitors in general practice serve the local community, solving the legal problems of the public. They are not, however, tied to any particular court: a solicitor can act throughout England and Wales. The formalities involved in real property transfer and succession form a significant share of the work of solicitors in general practice. Solicitors also pursue claims arising from personal injuries, or may be called upon to advise or plead in court on their client's behalf in criminal cases. Family law is a significant area of work: solicitors often appear as advocates in matrimonial cases. Solicitors advise businesses on such issues as employment, contracts, company formation and business competition policy.

#### 4.1.3 Barristers

There are over 8.000 practising barristers in England and Wales. Barristers are legal consultants offering specialist services, in particular as advocates or advisers in matters involving litigation. Barristers' training concentrates on the art of advocacy, court procedure and the rules of evidence. Although most advocacy is undertaken by solicitors, barristers are often instructed to conduct a case because of their expertise and experience in pleading before the courts. Recent legislation has removed the monopoly which allowed only barristers to appear as advocates in higher courts, and solicitors are now acquiring rights of audience in the higher as well as the lower courts. Solicitors may seek the advice of barristers, even when no appearance in court is anticipated, when their specialized knowledge or experience is needed.

Practising barristers are all self-employed, although they share offices, which are called "chambers". Due to their nature of barristers' work, the chambers are only to be found near to the major courts.

In general, a barrister has no direct contact with the client only through the instructing solicitor. The solicitor will choose the barrister best suited to the needs of the client. Barristers can, however, accept instructions directly from foreign lawyers or clients, if no litigation before the English court is in progress or anticipated (otherwise a barrister will only accept instructions from a solicitor). To instruct a barrister a client should contact the barrister's clerk, who acts as manager for a set of chambers.

#### 4.1.4 Judges in England and Wales

By contrast with many other European countries, the judiciary in England and Wales is not a separate career –Judges are appointed from both branches of the legal profession. They serve in the House of Lords ( the final appellate court), the Court of Appeal , the High Court or as Circuit or District Judges.

The Circuit Judges sit either in Crown Court to try criminal cases or in County Courts to try civil cases. District judges sit in County courts. There are also part –time Judges appointed from both branches of the practicing legal profession, who serve in the Crown Court, County court or on various tribunals, for instance those dealing with unfair dismissal from employment. In fact, most cases are dealt with not by Judges but by lay people, who are appointed to various tribunals because of their special knowledge, experience and good standing. For instance, the majority of minor criminal cases are judged by Justices of the Peace in Magistrates Courts. They are not legally qualified or paid, but are respected members of the community who sit as magistrates part – time.

All members of the judiciary are appointed by the Lord Chancellor who is a member of the Government and also speaker of the House of Lords. The Lord Chancellor holds a function similar to that of a minister of Justice , although some matters concerning the administration of justice are the responsibility of the Home Secretary.

#### 4.1.5 Judge

In England, the legal ancestor of the United States, judges are likewise drawn from the experienced practitioners - barristers who have demonstrated competence in litigation.

To that extent English judges resemble many American judges. But contrary to American practice, a barrister always enters the judiciary at the lower trial level. He is thereafter promoted, if he proves successful in the initial judicial post, first to the position of trial judge on the High Court, then possibly to the Court of Appeal, and then possibly to the highest court, the House of Lords. In other words, every judge on the High Court has served as a judge on a lower trial court, every judge on the Court of Appeal has served as a judge on the High Court, and every judge in the House of Lords has served as a judge on the Court of Appeal.

In the civil-law systems of Western Europe and of other parts of world, in contrast to both England and the United States, the judges begin their professional careers as judges. They qualify to enter the judicial service after completing university law study and usually a short period of practical training. Having been appointed judges at the beginning of their



legal careers, they are then promoted through the several higher levels of the judiciary. In this respect they resemble the English judges. The English judiciary combines the promotional feature of the civil-law system with the American practice of selecting judges from among experienced lawyers.

Compared to the English and civil-law systems of judicial recruitment and promotion, the methods used in the United States are quite varied. These procedures generally lack means of assuring professional quality. Moreover, the American judges' backgrounds are much more diverse than those of the English and civil-law judges.

#### 4.1.6 The court structure in the UK

The court structure is divided into two systems, those courts with civil jurisdiction and those with criminal jurisdiction. Most civil cases are heard in the first instance by the County Court, but in cases where large amounts are in dispute they will initially be heard in the High Court. Appeal from both the County courts and the High Court is to the Court of Appeal (Civil Division).

All minor criminal matters are dealt with by the Magistrates Court, but any case that may result in a prison sentence of more than six months is immediately referred to the Crown Court for trial. Here the case will be decided upon by a lay jury, the essential element of the Common Law system. Cases can be appealed from the Magistrates Court to the Crown Court, and from there to the Court of Appeal (Criminal Division)

The highest court in the land, not only for England and Wales but also for Scotland and Northern Ireland, is the House of Lords, which only considers appeals in points of Law. Each case is normally heard by five Law Lords in committee.

When a court is considering a European Community law point it may refer to the European Court of Justice in Luxembourg for interpretation.

#### 4.1.7 Introduction of court systems

Every state in the United States has its own court system. These systems are set up by state constitution, state statute, or combination of both. In addition to these state court systems, there is a federal court system.

From a systematic perspective, there are strikingly similar characteristics in the federal and state court systems. Both derive their heritage from the legal systems of England and have similar procedures for initially hearing cases and reviewing those initial decisions. Although the terminology describing the various courts within a given system (either federal or state) may vary, the basic functions of these courts are the same.

However, in spite of the overall similarity of the court systems, each

state has its own unique brand of civil dispute resolution. No two states have exactly the same laws or the same procedures in their courts. In addition, the federal system is not exactly like that of any of the states.

In order to understand all these court systems, it is important to learn their common characteristics. Every court system is divided into at least two classes of courts: trial and appellate courts. Trial courts are those courts in which a civil dispute is heard initially. In trial courts witnesses testify, a judge presides, and a jury may render a decision (verdict). In appellate courts, the losing party at a trial seeks to have the decision of the trial court reviewed and overturned. Typically, appellate courts decide their cases on the basis of stenographic record of the testimony at trial, documents presented at trial, pleadings filed, briefs submitted by the parties pointing out the authority for the positions they assert, and oral argument where the attorneys seek to clarify and amplify their respective positions. Generally speaking, no new evidence is presented to the appellate courts. The basic mandate of appellate courts is to review the trial proceedings upon request of one of the parties to ensure that the parties received a fair trial with respect to the applicable law involved and that the decision was supported by the evidence (testimony and documents) presented at the trial.

#### 4.1.7 Definition of civil litigation

Litigation is the use of the legal process to settle disputes between people. It is a mechanism provided by government to allow for a means of impartial decision making to settle disputes between people individually, businesses, and governmental entities. Its purpose is to provide a method of dispute resolution that is not based on acts of violence, coercion, and economic disparity.

Litigation in the United States usually takes one of three forms. Each has its own procedures for resolving disputes. In addition, each has its own body of principles in determining the rights and responsibilities of the parties or people affected by it. These three forms are criminal litigation, administrative litigation, and civil litigation.

Criminal litigation is the process by which an individual is prosecuted for committing an act that our society, through its legislature, has deemed to be antisocial.

Administrative litigation is the process by which private individuals, businesses, and administrative agencies resolve disputes before an administrative agency concerning the applicability, eligibility, and enforcement of an administrative agency's regulations.

Civil litigation is the process by which private individuals,

businesses, and governments resolve disputes that are neither criminal nor administrative concerning the payment of money, ownership and possession of property, marital obligations, the prevention of injury, and declarations of rights and responsibilities of the various parties involved. Civil litigation tends to concern itself predominantly with the following topical areas of law: contracts, torts, property, matrimonial, equity, and antitrust. Contract law is concerned with the wrongs or injuries arising from the violation of an obligation or duty created by consent of the parties involved. Tort law involves private injuries or wrongs arising from a breach of duty created by law. Property law is concerned with the rights and responsibilities of ownership and possession of real and personal property. Matrimonial law involves the rights and responsibilities of marriage, divorce, custody of children, support and alimony, and division of marital property. Equity law is concerned with providing relief and remedies for parties who would otherwise have no other recourse in law. Antitrust law involves the protection of trade and commerce from monopolies, restraints of trade, and other anticompetitive schemes.

#### 4.1.8 Investigation

With only a few clues, a magnifying glass, a bumbling friend, and a good bit of intuition, the fictional Sherlock Holmes always solved the crime. Television and motion pictures have carried on this romanticized version of the detective as a tough “loner stalking suspects until they end up in handcuffs or dead after a hair-raising shoot-out. In reality, however, the role of the detective is quite different. Most detectives are trained in modern techniques of investigation and the laws of evidence and procedure. They interact with many other individuals or police units, such as the traffic, vice, juvenile, homicide divisions. And they spend most of their time on rather routine chores involving quite a bit of paperwork and not much excitement. Detectives, however, occupy a more prestigious position in a police department than do patrol officers. They receive better salaries, they have more independently.

After a crime is reported, detectives investigate the facts in order to determine whether a crime has been committed and whether they have enough information to indicate that the case warrants further investigation. This information may come from patrol officers or members of the public. If a full-scale investigation is undertaken, detectives begin the process of reinterviewing witnesses, contacting informants, checking crime files, and so on. Modern detective work sometimes includes sting operations, which are undercover operations in which police pretend to involve themselves in illegal acts to trap a suspect. They may pose as fences

in order to capture thieves or as wealthy businesspeople offering money to those suspected of talking bribes.

#### 4.1.9 Conventional crimes

The most serious felonies are crimes against the person: criminal homicide, forcible rape, robbery, and aggravated assault. These four crimes arouse the greatest public emotion and concern. They are the "headline" crimes that create fear and incite demands for tougher and more vigorous law enforcement. However, most felonies are directed not against persons, but against property. Property crimes – burglary, larceny-theft, motor vehicle theft, arson – exclude crimes of violence.

Other offences not commonly thought of as violent crimes or crimes against the person have the potential for violence. For example, an act of shoplifting can result in physical injury if a store employee tries to restrain the shoplifter and is attacked. Similarly, a homeowner who is awakened by a burglar may end up as a murder victim rather than a victim of breaking and entering. An arson may turn into a crime against the person of a security guard is in a building when it is torched. Thus what starts as a crime against property may, as a consequence of a circumstances become a different crime a crime against the person.

The government for reason long criticized by criminologists collects data on eight offenses that make up the FBI's Crime Index: criminal homicide forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson. The Crime Index provides information on "crime in the streets"; however it fails to provide adequate coverage of "crime in the suites" (i.e., the highly profitable, large-scale property crimes perpetrated by corporations and businesses ). Official statistics also fails to report accurately on "workplace crimes"- the auto mechanic who performs unneeded repairs or the microwave repairer who replaces a transistor and charges for a new mag tube: annual losses from these offenses dwarf by comparison losses from conventional crimes such as shoplifting and burglary.

#### 4.1.10 Economic crimes

Economic Crimes are illegal acts committed by non-physical means and by concealment or guile to obtain money or property or to obtain business or personal advantage.

These crimes include:

1) Personal crimes. Crimes committed by persons operating on an individual ad hoc basis (credit purchases with no intention to pay individual income tax violations credit frauds bankruptcy frauds and security frauds).

2) Abuses of trust. Crimes committed in the course of their occupations by workers operating inside business government or other establishments in violation of their duty of loyalty of fidelity to employer or client (commercial bribery and kickbacks embezzlement securities fraud employee theft and padding of payroll and expense accounts).

3) Business crimes. Crimes incidental to and in furtherance of business operations but that are not the central purpose of the business (antitrust violations tax violations food and drug violations commercial espionage and deceptive advertising).

4) Con games. White-collar crime committed as a business or as the central activity of a business (medical and health frauds phony contests diploma mills; charity and religious frauds: insurance frauds; and coupon) redemption frauds. Economic crime is now receiving the attention it is due from the criminal justice system. One reason for this attention is that consumer advocacy has raised the public consciousness about economic crime. Companies about the rudeness, stridency, and partisan zeal of groups can probably be considered testimonials to the effectiveness of their activities. Advocates of ecology and environmental protection have contributed greatly to increasing public awareness of economic crime. Ever since the offshore oil spill that blackened the beaches of Santa Barbara, organizations like the Sierra Club and Common Cause have pressured the government relentlessly for the passage of legislation – or for the effective enforcement of existing legislation – to prevent further despoliation of irreplaceable natural resources. These efforts have focused on the concept of corporate accountability.

#### 4.1.11 Syndicated (organized) crime

Organization is the keynote of syndicated crime. In fact, organized crime is the more familiar expression for the illegal activities of syndicate criminals. Syndicated crime is a continuing and self-perpetuating conspiracy that relies heavily on fear and corruption. The roots of syndicated crime reach far back into our national (American) history, with almost every nationality and ethnic group having been represented in the ranks at one time or another. The latter fact has given rise to the hotly disputed concept of ethnic succession, which maintains that immigrant arrivals used syndicated crime to attain wealth and power before finding safer and more attractive opportunities in legitimate business.

Among the principal revenue sources for syndicated crime are illegal importation and distribution of drugs – chiefly cocaine, heroin, and marijuana and gambling, which has an estimated annual take of billions of dollars. Another lucrative activity is loan-sharking, a low-risk, high-

return enterprise. Syndicated crime has also infiltrated legitimate business, where it is involved in bankruptcy fraud, the manipulation of stocks and bonds, land fraud, and union racketeering.

#### 4.1.12 Computer crime

The explosive growth in the use of computers in the business world in the past few years has brought with it a corresponding increase in computer misuse. Traditional (precomputer) state and federal laws applicable to such crimes as trespass and larceny are not necessarily appropriate for prosecution of cases of computer fraud and computer theft. For example, one court held that a city employee's use of the city's computer facilities in his private sales venture could not support a theft conviction absent any evidence that the city was deprived of any part of value or use of the computer. In some cases, use of a computer has not been deemed "property" within traditional theft statutes.

Computer crimes fall mainly into three broad categories: simple unauthorized access, theft of information, and theft of funds. Among schemes that have been subjects of litigation are stealing a competitor's computer programme; paying an accomplice to delete adverse information and insert favourable false information into the defendant's credit file; a bank's president having his account computer coded so that his checks would be removed and held rather than posted so he could later remove the actual checks without their being debited; and a disgruntled ex-employee's inserting a "virus" into his former employer's computer to destroy its records.

Some estimate that losses due to computer misuse may be as high as \$35 to \$40 billion per year ( including thefts of funds, losses of computer programmes and data, losses of trade secrets, and damage done to computer hardware). These estimates may not be reliable, but it is clear that a substantial amount of computer crime is never discovered and a high percentage of that which is discovered is never reported because companies do not want publicity about the inadequacy of their computer controls and financial institutions, such as banks, fear that reports of large losses of funds, even when insured, are likely to cause depositors to withdraw their funds in the interest of safety. Whatever the actual loss due to computer misuse, both Congress and the state legislatures have passed statutes to deal specifically with computer crime.

#### 4.1.13 Computer hacking- high-tech crime

You can rob a bank without leaving the house these days. Who needs stocking masks, guns and getaway cars? If you're a computer whizz-kid, you could grab your first million armed with nothing more dangerous than a personal computer (PC), a telephone and a modem to connect them.

All you have to do is dial into the network that link the computers in large organizations together, type in a couple of passwords and you can rummage about in the information that's stored there to your hearts content.

Fortunately it isn't always quite as easy it sounds. But, as more and more information is processed and stored on computer, whether it's details of your bank account or the number of tins of baked beans in the stockroom at the supermarket, computer crime seems set to grow.

A couple month ago a newspaper reported that five British banks were being held to ransom by a gang of hackers who had managed to break into their computer. The hackers were demanding money in return for revealing exactly how they did it. In cases like this, banks may consider paying just so they can protest themselves better in the future.

No one knows exactly how much money is stolen by keyboard criminals – banks and other companies tend to be very secretive if it happens to them. It doesn't exactly fill customers with confidence if they think their bank account can be accessed by anyone with a PC! Some experts believe that only around a tenth of all computer crimes are actually reported. Insurance company Hogg Robinson estimate that computer crimes are 'inside jobs', where staff with access to the company's computers fiddle with the records. A comparatively small amount are committed by the more glamorous-and headline-grabbing-hackers.

The true hacker, it seems, doesn't do it for financial gain. The thrill appears to be, not in getting rich, but in beating the system. Two of Britain's most notorious hackers are Nicholas 'Mad Hacker' Whiteley and Edward Singh. The renegade pair have been the scourge of organization with insecure computers for years, seemingly competing for the title of Britain's best hacker.

There are plenty of software companies who specialize in writing software that make computers hacker-proof. One company in the States set out to prove that its system can defeat by asking over 2,000 of them to try to hack in.

#### 4.1.14 Bribery

Bribery is one of the most prevalent forms of white-collar crime. A bribe can be money, property, favors, or anything else of value. The crime of commercial bribery prohibits the payment of bribes of private persons and business. This type of bribe is often referred to as kickback or payoff. Intent is necessary element of this crime. The offeror of a guilty of the crime of bribery even of the person to whom the bribe is can be found liable for the crime of bribery even if the person to whom the bribe is offered rejects the bribe.

Consider this example: Harriet Landers is the purchasing agent for the ABC Corporation and is in charge of purchasing equipment to be used by the corporation. Neal Brown, the sales representative of a company that makes equipment that can be used by ABC Corporation, offers to pay her a 10 percent kickback if she buys equipment from him. She accepts the bribe and orders the equipment. Both parties are guilty of bribery.

At common law, the crime of bribery was defined as the giving or receiving of anything of value in corrupt payment for an "official act" by a public official. Public officials include legislators, judges, jurors, witnesses at trial, administrative agency personnel, and other government officials. Modern penal codes also make it a crime of bribe public officials. For example, a developer who is constructing an apartment building cannot pay the building inspector to overlook a building code violation.

#### 4.1.15 Racketeer influenced and corrupt organizations act

Organized crime has a pervasive influence on many parts of the American economy. In 1980, congress enacted the Organized Crime Control Act. The Racketeer influenced and corrupt Organizations Act (RICO) is part of this Act. Originally, RICO was intended to apply only to organized crime. However, the board language of the RICO statue has been used against nonorganized crime defendants as well. RICO, which provides for both criminal and civil penalties, is one of the most important laws affecting business today.

RICO makes it a federal crime to acquire or maintain an interested in, use income from, or participate in the affairs of an "enterprise" through a "pattern of racketing activity". An "enterprise" is defined as a corporation, a partnership, a sole proprietorship, another business or organization, and the government. Racketeering activity consists of a number of specifically enumerated federal and state crimes, including such activities as gambling, arson, robbery, counterfeiting, dealing in narcotics, and such. Business-related crimes, such as bribery, embezzlement, mail fraud, wire fraud, and the like are also considered racketeering.

To provide a pattern of racketeering, at least two predicate acts must be committed by the defendant within a ten-year period. For example, committing two different frauds would be considered a pattern. Individual defendants found criminally liable for RICO violations can be fined up to \$25,000 per violation, imprisoned for up to 20 years, or both. In addition, RICO provides for the forfeiture of any property or business interests (even interests in a legitimate business) that were gained because of RICO violations....

#### 4.1.16 White-Collar Crime

The term 'white-collar crime' originally referred only to crimes committed against business firms, usually by their employees, through the use of non-physical, nonviolent means. In this sense, such crime consisted



essentially of embezzlement, the taking of an employer's funds by an employee entrusted with such funds, and theft, the wrongful taking of any other property of the employer. Today, however, the term has almost universally been broadened to refer to all nonviolent criminal acts committed by business firms as well as against business firms. Used in this broader sense, white-collar crime embraces a very wide spectrum of business misconduct, covering such diverse wrongs as practicing of fraud on insurance companies, securities fraud, obtaining property through misuse of credit cards, and even income tax evasion. The term also includes computer fraud, a topic warranting special attention at the end of this chapter. In the following section, we will examine some of the most common business-related actions that violate federal or state criminal statutes-most of which fall under the white-collar heading.

#### 4.1.17 Selected state crimes

As might be imagined, there are so many criminal statutes in the various states – even when one's inquiry is limited to statutes relating to business offenses alone – that a comprehensive treatment of the subject is well beyond the scope of this chapter. Nonetheless, there are a number of major areas of business misconduct that are treated so uniformly by the various states' criminal laws that one can give a 'feel' for such laws by examining a few of these areas.

Larceny is generally defined as the wrongful and fraudulent taking by one person of the personal property of another, with the intent on the part of the taker of converting the property to his or her own use. In addition to simple larceny statutes, some state have larceny by trick statutes or false pretenses statutes that generally prohibit the obtaining of another's money or property by deception, by trick, or by some other fraudulent ruse. Examples of such conduct are the filling of false claims with insurance companies and taking of buyers' money for goods or services. Additionally, the sales in recent years by 'investment firms' of investor's right to participate in federally operated lotteries of oil lands, with investors being assured that their chances in selection are 1 in 4 (when in reality the chance is 1 in 1,000), clearly fall within the purview of these statutes. Violations of such statutes are usually misdemeanors when the money or value of the property is under the specific sum (such as \$150), and felonies if the value is \$150 or above.

#### 4.1.18 Corporate criminal liability

Until relatively recently, it was very rare for a corporation, which is after all a fictional entity, to be indicted for or convicted of a crime. But that has changed. Between 1976 and 1979, 574 corporations were convicted of federal crimes. And state courts are increasingly convicting corporations of crimes where there is an indication that the state legislature intended corporations to be covered by the criminal statutes.

The basic rule is that corporations can be held criminally liable for any acts performed by an employee (no matter how far down the corporate ladder) if that employee is acting within the scope of his or her authority. The basic idea is that the corporation receives the benefit when the agent acts properly, and must bear the responsibility when the agent errs. This is embodied in the respondent superior doctrine.

The corporation can even be held liable when the agent is violating company policy or disobeying a specific order from a superior. Corporations can also be convicted of crimes which have an element of liability that the wrongdoer had specific criminal intent to do wrong. The intent of the employee will be imputed to the corporation so long as the employee was acting to benefit the corporation ( and the corporation itself was not the victim of the crime).

Corporations have been indicted for homicide and a wide variety of lesser offenses. In recent years, indictments for health and safety violations arising out of toxic waste disposal, failure to remove asbestos from buildings, and construction site accidents multiplied dramatically.

#### 4.1.19 Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. If the violation affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Ponzi or Pyramid? The term 'Ponzi' is often used interchangeably with pyramid scheme. In the early 20<sup>th</sup> century, Carlo Ponzi swindled fellow Italian immigrants (including family members and the parish priest) out of millions until his investment scam collapsed and went to jail.

One of the early known examples of a Ponzi scheme appeared in 1920, in Boston, Massachusetts. Charles Ponzi, Italian immigrant and financial wizard, established the Securities and Exchange Company. The corporation consisted of only Ponzi, who started his company with a few hundred dollars borrowed from two silent partners. The

company's prospectors promised investors substantial returns on their investments in Ponzi's company. Within 45 days an investor would receive his original investment plus 50 percent interest; in 90 days, he would double his original investment. Ponzi explained to doubters that knowing how to take advantage of the varying currency exchange rates in different parts of the world was how he made his profit. He started his company upon receiving a business letter from a conspirator in Spain, who enclosed a reply coupon which, if exchanged at an U.S. Post Office, was worth 6 cents. In Spain, the cost of the coupon in Spain and redeeming it in the U.S., he made a 5-cent profit. Thereafter, Ponzi began operations in nine different countries, with his agents travelling back and forth between the disparity in currency value.

#### 4.1.20 The money laundering industry

In the summer of 1991, perhaps only the dismantling of the Soviet Union received greater national media attention than the shutdown of the Bank of Commerce and Credit International (BCCI) by regulators in several countries. BCCI was convicted of money laundering in Tampa, Florida. In addition, BCCI has, as part of a global plea agreement, pled guilty in the District of Columbia to conspiracy to commit racketeering acts involving money laundering, fraud, and tax evasion, and in New York to charge of money laundering, fraud, bribery, and theft.

The bank has been called "the most pervasive money-laundering operation and financial supermarket ever created" a "marathon swindle" and a "steering service for (Colombian) drug traffickers to deposit hundreds of millions of contraband dollars outside the country". Currently the target of investigations several countries. BCCI only one example of the pervasive, worldwide money laundering industry that exists today.

It is probably impossible to determine how much money is laundered either domestically or internally each year. One way to gain some perspective on the problem is to consider estimates of drug trafficking revenues. Worldwide, people spend as much as \$ 500 billion annually on illegal drugs with up to \$200 billion spent in the United States.

According to the U.S. Department of the Treasury, drug traffickers launder an estimated \$100 billion each year in this country alone with much of the activity channeled through financial institutions. Although drug trafficking fuels the money laundering industry any assessment of the problem must also consider the funds laundered from other crimes including fraud offenses, securities manipulation illegal gambling, bribery, extortion and evasion, illegal arms sales, political payoffs, and terrorism. When these crime are also considered estimates of the amount money laundered annually run as high as \$300 billion.

#### 4.1.21 Defamation of character

A person's reputation is a valuable asset. Therefore, every person is

protected from false statements made by others during his or her lifetime. This protection ends upon a person's death. The tort of defamation of character requires a plaintiff to prove that the defendant made an untrue statement of fact about the plaintiff and the statement was intentionally or accidentally published to a third party. Publication simply means that a third person heard or saw the untrue statement. It doesn't just mean appearance in newspapers, magazines, or books.

The name for an oral defamatory statement is slander. A false statement that appears in letter, magazine, book, photograph, movie, video, and the like is called libel. Most courts hold that defamatory statements in radio and television broadcasts are considered libel because of the permanency of the media.

The publication of an untrue statement of fact is not the same as the publication of an opinion. The publication of an opinion is usually not actionable. 'My lawyer is lousy' is an opinion. Since defamation is defined as an untrue statement of fact, truth is an absolute defense to a charge of defamation. The law recognizes each person's right to live his or her life without being subjected to unwarranted and undesired publicity. A violation of this right constitutes the tort of invasion of the right to privacy. Examples of this tort include reading someone else's mail, wiretapping, and such....

#### 4.1.22 The 'Three-Step' scheme

First Step. — This method begins with the formation of a new corporation, usually organized and then run by 'fronts'. A large sum of money is deposited in a newly opened bank account to provide a basis upon which credit information can be furnished to credit information agencies, suppliers, and manufacturers. This initial deposit will later be withdrawn. A large impressive store or warehouse is then leased. The operators send initial orders, accompanied by letters, to potential suppliers, praising their new premises, portraying a false picture of a rapidly expanding and carrying the veiled threat that unless quick action is taken the particular supplier will be left out in the cold once the business begins full operation. Since suppliers are aware that a retail outlet can only handle and give prime display space to a limited variety of brands of merchandise, they conclude that those offering immediate credit will be the suppliers favored in the future. Their desire for business includes them to fill orders quickly.

During the first month of operation small orders are placed with various manufacturers and suppliers around the country. For credit references the operators use the company's large bank balance, not yet withdrawn to furnish false information. False financial statements are also used. The first group of suppliers are paid in full, immediately upon receipt of the goods.

Second Step. — The same procedure is followed the second month, except that first-month suppliers are paid only  $\frac{1}{2}$  or  $\frac{3}{4}$  of the second

month bill, while new suppliers are paid almost in full. Credit references given to new suppliers now include first month suppliers who have been promptly paid. During the first two months a high credit rating has thus been established for the company. Third Step. – Step three now unfolds. The operators obtain as much merchandise as possible by sending out numerous large orders to all suppliers of the previous two months. Merchandise pours into the store or warehouse, and as fast as comes in the front door, it goes out the back door. The operators rip off all labels, discard invoices, and deliver the goods in rented trucks to prearranged outlets or to convert warehouses for later disposal. These outlets may be, 'fences', syndicate controlled companies, or firms willing to purchase merchandise, no questions asked, at very low prices. They may also be honest dealers who just believe that they're getting an unusual bargain. The type of purchases is unimportant so long on the merchandise can be unloaded quickly. It is sold for 25 to 50 of the manufacturer's or supplier's price, but this is all profit since the operators never intend to pay for any of it. Soon creditors' formal complaints make continued operation unsafe, and the company is petitioned into bankruptcy.

#### 4.1.23 The One-Step scheme

This scheme commences with the purchase of an existing business which has a substantial inventory and equally substantial liabilities, these enabling the purchasers to obtain control for a relatively small cash payment. Payments of any balance on the price are made with notes or post-dated checks due in 60 days. Since the operation won't last for longer than for 30 to 45 days, there is little concern about making payments on the notes or having sufficient funds to buck up the checks.

The business thus purchased has an established credit rating, normally being rated D2 or better by Dun and Bradstreet. The purchase is most frequently made at a time which coincides with the issuance of Dun and Bradstreet's Regional Book showing that the company is operated by reliable businessmen and has a good credit rating. The new owners are careful not to inform Dun and Bradstreet, other credit rating organizations, or suppliers, of the change in ownership, and creditors who deal with the firm believe that the former operators are still in control. A program of massive overpurchasing of merchandise is then initiated. Large credit orders are placed with numerous suppliers. In many instances the merchandise ordered bears no relation on the type of business formerly carried on by the firm, and the orders are for unusually large amounts in the light of the firm's prior sales volume. False financial statements and other fraudulent devices used to obtain credit in the three-step scheme, quicker methods of purchasing, such as telephone orders and personal visits to suppliers and trade shows, are utilized instead of mail orders. The merchandise thus obtained is disposed of in the same manner as in the

three-step operation, and within 30 to 45 days the company is set for bankruptcy.

#### 4.1.24 The 'Same Name' scheme

The three-step and one-step overpurchasing schemes are the basic types of planned bankruptcy. There are, of course, variations on these basic schemes, the more common of which should be mentioned. One is the 'same name' scheme, used in both the three step and one step operations. Here the scam operators open a business with a name deceptively similar to that of a going concern in the same locality. Suppliers and manufacturers assume they are dealing with a new branch of the legitimate business with which they have dealt in the past, or if they have not done business in the past, they rely on the credit rating of the legitimate business because the names are virtually identical and the businesses are located in the same city. In either case, the scam operators obtain immediate credit and proceed to carry out a planned bankruptcy-merchandising swindle.

The Christmas Season Operation. A second important variation on the three step and one step schemes is the 'Christmas scheme', so-called because the entire operation is centered around the Christmas buying rush. The swindle usually begins in October or November, and by New Year's Day the firm is out of business. The rush of the Christmas season and the eagerness of suppliers to obtain their share of the holiday sales encourage laxity in the checking of credit information. In order to avoid the rush of losing a large Christmas order during the delay caused by a proper credit check, suppliers fill the orders sent by the scam operators quickly. It is not until Christmas is over and the customer out of business that these suppliers realize 'they've been taken'.

#### 4.1.25 The rape of an old, respected company

Another variation is the planned bankruptcy of an old, respected company carried out by those who have owned it for a number of years. An established company in the wholesale food distribution business is petitioned into bankruptcy by its owners who had operated the firm as sole stockholders for over ten years. During the last four months of operation the company had accumulated debts of over \$400,000 by ordering large quantities of frozen and canned foods, meats, and dairy products from numerous suppliers of the corporation for years. In their bankruptcy petition the owners listed assets of \$10,000 and liabilities of \$450,000.

During a 21 a hearing before the Referee in Bankruptcy, when asked to account for the absence of both goods and proceeds, the owners testified that during the six months prior to the filing of their petition they had lost several hundred thousand dollars of company funds at local racetracks and on a trip to Las Vegas. They also stated that during this period the majority of sales had been made on a cash basis for which no records were kept. Many of these sales, they asserted, had been made at below cost in order to

obtain money to keep the business going and pay off gambling debts.

#### 4.1.26 The planned bankruptcy

The planned bankruptcy is a merchandising swindle based on the abuse of credit, either legitimately or fraudulently established.

The scheme consists of:

- 1) overpurchasing of inventory on credit;
- 2) sale or other disposition of the merchandise thus obtained;
- 3) concealment of the proceeds;
- 4) nonpayment of creditors, and finally;
- 5) the filling of an involuntary petition by creditors;

We refer to this as a 'planned bankruptcy' because bankruptcy of the business is the ultimate goal of those running the operation. Popular Areas of Operation. Most planned bankruptcies occur in the 'general merchandise' field, involving items with wide market appeal that can be bought and sold in volume without attracting too much attention. Usually the goods are of a type that is easily transportable and difficult to trace, the most common being electrical appliances, television and hi-fi sets, radios, furniture, electric typewriters and adding machines, cameras, watches, jewelry, clothing, furs, luggage, and meat and other food products.

Essence of The Fraud. Credit is the keystone of the planned bankruptcy. The essence of the fraud is the establishment and abuse of credit. Devices such as false financial statements and deceptive patterns of account payment are utilized by the scam operator in order to establish a good credit rating and to continue to deceive suppliers after that has been achieved. The methods by which this is accomplished must be fully understood if we are to recognize and hopefully, deny success to the scam operator.

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**ПРОФЕССИОНАЛЬНО-ОРИЕНТИРОВАННЫЙ  
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