

## REVIEW NOTES THE ECONOMICS OF CRIMINAL LAW

### I. What distinguishes a crime from a civil action?

- legal definition of a crime
  - o criminal intent
  - o public harm
  - o punitive element
  - o standard of proof greater
- why does criminal law exist?
  - o morality
  - o public good nature of crimes
  - o compensation has its limits
  - o punishment may be needed due to enforcement error

### II. Strict liability in criminal law

- what is strict liability (no proof of intent to commit harm)
  - o examples
  - o why does having it make sense

### III. Theory why do criminals commit crime?

- assuming rationality, when do criminals commit crimes?
  - o other assumptions
  - o graphical analysis
  - o enforcement error
  - o outcome of the model

### IV. Do criminals actually behave in this manner? Empirical test of the theory

- Predictions from the theory
  - o certainty decrease in enforcement error => decrease crimes
    - increase certainty by
      - increase probability of being caught
      - increase probability of being convicted
  - o severity increase in punishment => decrease crimes
  - o decrease in payoff => decrease crimes
- deterrence hypothesis = certainty and severity increase the expected punishment of committing crimes
- Does punishment deter crime? (Is the deterrence hypothesis correct?)
  - o what are the competing hypotheses?
  - o crime caused by a complex interrelationship of socio-economic and biological variables => deter crime by affecting these root causes of crime
- General Deterrence
  - o what is general deterrence?
  - o focus on how many crimes are not committed because of punishment rather than on the group most likely to commit crimes.
    - thus look at the impact of punishment on the general population
  - o problems with empirical studies
    - studies (know the results generally)

- Specific Deterrence
  - o what is specific deterrence?
  - o studies
- Economic conditions and crime (the alternative hypothesis)
  - o does crime depend upon economic conditions (i.e., does crime increase during recessions)
  - o empirical evidence
- The death penalty
  - o moral issues
  - o legal history
  - o empirical studies
  - o overall conclusion does the death penalty deter murders?
- overall conclusion does punishment deter crimes?