

## **Chapter 7**

### **7.1 Self Check**

1. In your own words, distinguish between failure of proof and a true defense.

A defense based on failure of proof is valid when the prosecution fails to prove the cause of action in its entire scope and meaning, such as by failing to produce adequate evidence to prove each element of the crime. A true defense, also called an affirmative defense, is one in which the defendant admits his or her guilt, but offers one or more legally recognized reasons (such as necessity or duress) why he or she should nonetheless be acquitted.

2. Explain the differences between mitigating and complete defenses.

Mitigating defenses are also called partial defenses because they reduce a defendant's charges, rather than produce an acquittal as complete defenses do.

### **7.2 Self Check**

1. How can self-defense be used as a complete defense? As a mitigating defense?

To use self-defense as a complete defense, a defendant usually must prove the necessity of using force, the proportionality of the force to the threat, and the reasonableness of the belief that force was necessary. Only a few states allow an unreasonably mistaken defendant to assert a partial or "imperfect" self-defense claim, in which case a murder offense will be mitigated to manslaughter.

2. What are the two problem areas that arise from a defense based on the protection of another person?

The two problem areas are:

- Determining the category of persons who can be assisted
- Identifying situations in which the person defended had a legal right to act in self-defense

### 7.3 Self Check

1. Explain the differences between insanity and diminished capacity.

Insanity is legally established as a complete defense when a criminally accused person is suffering from mental disease when the crime occurred and thus may be relieved of criminal responsibility. Diminished capacity is a defense used by accused persons who, at the time of the act charged, were not as mentally ill as an insane person but who might nonetheless be able to introduce evidence of their mental condition on the question of whether they had the mental state required for conviction of the crime charged.

2. Explain the elements that must be in place for entrapment to occur.

In entrapment, the defendant is tricked or otherwise induced by law enforcement agents to commit an illegal act that he or she would not otherwise have committed.