

Chapter 15

15.1 Self Check

Which do you think are more serious: crimes that are committed by citizens who try to disrupt the legal system or crimes that are committed by those in positions of authority? Why?

It depends on the crime being committed, and in what circumstances. If a private citizen has the same level and breadth of influence as a public official does, his or her crime may be equally serious. However, corrupt public officials usually have a greater ability to create far-reaching harm to a community.

15.2 Self Check

1. What are some ways in which bribery is different from quasi-bribery?

Bribery involves public officials whose influence can affect an entire community. Quasi-bribery involves public officials whose influence may or may not be equally far-reaching.

2. Should commercial bribery carry different penalties than regular bribery or quasi-bribery?

Why or why not?

Probably, because corporate corruption can affect an entire industry and its consumers. In the case of industries in which people rely on manufacturers to safeguard their health and well-being, such as food or automobiles, this is particularly important.

15.3 Self Check

1. Why do you think that the laws regarding false swearing have changed since common law?

They have changed because modern lawmakers wish to recognize the significance of such actions and punish them more appropriately.

2. What are the elements that are required for subornation of perjury?

The three elements are:

- Perjury in fact
- The perjured statements were procured by the accused
- Proof that the suborner, who is the person who agrees to commit subornation of perjury, knew or should have known that such oaths or testimony would be false

15.4 Self Check

1. Should the federal witness tampering statute apply only to witnesses who are not involved in undercover operations? Should it apply only to classic cases of intimidating or threatening witnesses?

It could apply to all witnesses, since all of them can be crucial to the criminal trial for which they are testifying. Some also believe that it should not be limited to overt threats or intimidation, but to any attempt to cause witnesses to deviate from the truth.

2. What are some ways that evidence can be suppressed? Among the participants in a trial, who seems most likely to suppress evidence?

Suppressing evidence occurs when a defendant, or a person working on behalf of the defendant, suppresses (hides), destroys, or refuses to produce evidence relevant to a grand jury investigation. Defendants and defense counsel are the most likely to suppress evidence.

15.5 Self Check

1. Should individuals have the right to resist unlawful arrest? Why or why not?

Some people agree that resisting unlawful arrests should be allowed because people should not be unfairly deprived of their liberty and may have a legitimate reason to fear the police. Some feel that since it may be impossible to determine at the time of arrest whether it is lawful, people should not create extra legal problems and should agree to be arrested, then seek appropriate redress.

2. What factors make it difficult for jurisdictions to decide whether resisting unlawful arrest should be legal?

Factors in favor of legalizing the resisting of an unlawful arrest can include a person's fear of brutality or discriminatory treatment, as well as concerns about unprofessional conduct by police. Factors against this can include concerns about harm or death caused to either party, the availability of other forms of redress for those who are unlawfully arrested (such as civil

litigation), and the difficulty in determining whether or not the suspect is correct in determining that his or her arrest is unlawful.

15.6 Self Check

1. Why is misprision of a felony considered a more serious crime than compounding a felony?

Do you agree with this?

Because compounding a felony involves accepting a bribe to not follow up on a felony, but misprision of a felony involves taking positive steps to conceal or destroy evidence. Many people consider misprision of a felony more serious, but some may feel that accepting a bribe to not press charges is equally or more damaging to the justice process.

2. Should society be more concerned about felonies and insist that all felonies be prosecuted, as opposed to prosecuting misdemeanors?

This is probably a good idea, especially since the justice system is overwhelmed and many jails are overcrowded.

15.7 Self Check

Under what circumstances are escape statutes interpreted to exclude certain inmates? Do you agree with this? Why or why not?

Inmates who face a strong possibility of physical abuse, sexual abuse, or death are generally not punished for attempting to escape prison because the courts have held that their

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attempts at self-preservation are justified. Most people agree with this because to allow such abuses in prison would constitute cruel and unusual punishment.

15.8 Self Check

Can constructive contempt be as harmful as direct contempt in some circumstances? Why or why not?

Yes, because it can undermine the will of the court as harmfully as direct contempt can.