Statutory Construction in the Criminal Law Context: Selected Principles and Examples

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Statutory Construction in the Criminal Law Context: Selected Principles and Examples

Criminal law marks a boundary between conduct that society deems permissible and behavior that it deems worthy of punishment. Those who cross this line may be subject to penalty and social disapproval. In addition to punishment, transgressors may face wide-ranging public and private collateral consequences, such as limitations in the ability to exercise voting or gun-possession rights, and difficulty in obtaining employment.

Defendants in criminal cases sometimes raise legal challenges during their proceedings. These challenges may concern issues specific to the defendant's case, such as whether the evidence presented is sufficient to establish guilt or whether that evidence was lawfully obtained. More relevant to lawmakers, defendants may contest the criminal statutes under which they are charged, arguing that the statutes are legally deficient or misapplied to conduct that the law was not intended to cover. For example, some defendants claim that certain criminal statutes are "void for vagueness" because they are unclear in that they fail to provide fair notice of what conduct is prohibited. In other instances, defendants may argue that applying a particular statute to their circumstances exceeds Congress's intent or conflicts with constitutional principles.

This report addresses substantive principles—generally referred to as tools of statutory construction—that the Supreme Court has utilized to review the validity and scope of criminal statutes. The report begins by defining selected tools of construction in the criminal context, offering examples of their use from historic and modern cases. The report then summarizes cases from the 2022, 2023, and 2024 Supreme Court terms in which the Court applied these principles to challenged criminal laws. The discussion and examples are not comprehensive but are representative in nature. The report closes with considerations for Congress.

SUMMARY

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Criminal law marks a boundary between conduct that society deems permissible and behavior that it deems worthy of punishment.[1] Those who cross this line may be subject to punishment,[2] social disapproval,[3] and wide-ranging public and private collateral consequences, among other things.[4] Criminal defendants sometimes raise legal challenges during their proceedings. Challenges may concern issues specific to a defendant's case, such as whether the evidence presented is sufficient to establish guilt[5] or whether that evidence was lawfully obtained.[6] Defendants may also contest the criminal statutes under which they are charged, arguing that these laws are legally deficient or misapplied to conduct that the law was not intended to cover. In particular, defendants at times argue that

- the law is vague and fails to give fair notice as to what conduct is wrongful;[7]
- Congress may not have intended for the law to be applied to the defendant's particular conduct or circumstances;[8]
- enforcement of the law against the defendant would fail to reserve criminal punishment for those with a sufficiently culpable mental state;[9]
- the law clashes with countervailing constitutional values, such as federalism;[10] or
- the law is ambiguous, and under the rule of lenity, ambiguous criminal statutes are to be construed against the government and in favor of the defendant.[11]

This report addresses these substantive principles—generally referred to as tools of statutory construction[12]—that the Supreme Court has utilized when considering the validity and scope of

[1] *See* Henry M. Hart, Jr., *The Aims of the Criminal Law*, 23 L. & CONTEMPORARY PROBLEMS 401, 404 (1958).

[2] *See* CRS Report R48177, *Components of Federal Criminal Law*, coordinated by Peter G. Berris (2024) (listing different forms of punishment).

[3] *See* United States v. Gementera, 379 F.3d 596, 605 (9th Cir. 2004); *see also* Michael Serota, *Guilty Minds*, 82 MD. L. REV. 670, 716 (2023) "The moral judgments rendered by the criminal legal system . . . constitute a *formal* manifestation of *public* blame. It is widely understood . . . that a criminal conviction expresses an official judgment of community condemnation, while the sentence attached to it . . . denotes the *extent* of that condemnation.") (footnote omitted).

[4] *See, e.g.*, 18 U.S.C. § 922(g)(1) (prohibiting anyone who has been convicted of a felony offense from possessing a firearm); U.S. COMM'N ON C.R., COLLATERAL CONSEQUENCES: THE CROSSROADS OF PUNISHMENT, REDEMPTION, AND THE EFFECTS ON COMMUNITIES 1–3 (2019) (identifying barriers to voting, securing employment, qualifying for financial aid, and getting a driver's license, among others).

[5] *See* Cong. Rsch. Serv., *Guilt Beyond a Reasonable Doubt*, CONSTITUTION ANNOTATED, https://constitution.congress.gov/browse/essay/amdt14-S1-5-5-5/ALDE_00013763 (last visited Dec. 19, 2025).

[6] *See* Cong. Rsch. Serv., *Exclusionary Rule and Evidence*, CONSTITUTION ANNOTATED, https://constitution.congress.gov/browse/essay/amdt4-7-1/ALDE_00000805/ (last visited Dec. 19, 2025).

[7] *See* Bouie v. City of Columbia, 378 U.S. 347, 351 (1964) ("[A] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law." (quoting Connally v. Gen. Const. Co., 269 U.S. 385, 391 (1926))).

[8] *See* Bond v. United States, 572 U.S. 844, 859–60 (2014) (deciding that a statute on "chemical weapons" must show clear indication that Congress intended its application for "purely local crimes" before interpreting the statute "in a way that intrudes on the police power of the States.").

[9] *See* Counterman v. Colorado, 600 U.S. 66, 75 (2023); CRS Legal Sidebar LSB11033, *The Supreme Court's Narrow Construction of Federal Criminal Laws: Historical Practice and Recent Trends*, by Dave S. Sidhu (2023).

[10] *See* Sidhu, *supra* note 9, at 3.

[11] *See* Sidhu, *supra* note 9, at 4.

[12] If a statute is clear, "the job of the judge is generally straightforward." ROBERT A. KATZMANN, JUDGING STATUTES 4 (2014). "But when—as often happens—the statute is ambiguous, vague, or otherwise imprecise, the interpretive task is (continued...)

criminal statutes. The report begins by offering examples of the application of these tools from historic and modern cases. The report then summarizes cases from the 2022, 2023, and 2024 Supreme Court terms in which the Court applied these principles to challenged criminal laws.[13] In recent terms, the Supreme Court has issued several decisions that narrowly construe criminal statutes. A federal appellate judge described these rulings as "nearly an annual event."[14] In the Court's last three completed terms, the Justices have continued to issue opinions limiting the reach of specific criminal statutes. This report references these cases as well as those in which the Court has rejected defendants' arguments as to the relevant criminal laws. The discussion and examples are not designed to be comprehensive but rather are representative of these tools and this trend. The report closes with considerations for Congress.

Selected Tools of Statutory Construction in Criminal Law

Criminal defendants may contest their prosecution for many reasons.[15] A subset of these arguments challenge the criminal law under which the prosecution is brought.[16] This category of challenges may include arguments, for example, that the criminal statute is legally deficient or misapplied to conduct the law was not intended to apply to. This section highlights some of these arguments challenging criminal statutes.

Vagueness: Ensuring That the Line Between Lawful and Unlawful Conduct Is Sufficiently Clear

The Supreme Court has observed that criminal law presupposes that an individual possesses the capacity to choose whether to conform one's conduct to the dictates of the law.[17] The Court has also emphasized that the line between lawful and unlawful conduct must be sufficiently clear that an individual can understand the limits of the law and thereby make a meaningful choice about whether to stay within them.[18] When the line is unclear, an individual may lack fair warning

not obvious." *Id.* A judge must then turn to an approach to or methodology of interpretation. *See id.* at 5. The "tools" or "canons" of statutory construction refer to those guideposts or shorthand principles that courts use to "gather evidence of statutory meaning." *See* CRS Report R45153, *Statutory Interpretation: Theories, Tools, and Trends*, by Valerie C. Brannon (2023).

[13] *Counterman*, 600 U.S. 66; *Dubin*, 599 U.S. 110; Twitter v. Taamneh, 598 U.S. 471 (2023); Fischer v. United States, 603 U.S. 480 (2024); Snyder v. United States, 603 U.S. 1 (2024); Garland v. Cargill, 602 U.S. 405 (2024).

[14] United States v. Dubin, 27 F.4th 1021, 1041 (5th Cir. 2022) (Costa, J., dissenting), vacated and remanded, 599 U.S. 110 (2023).

[15] A primary source on statutory construction lists seventy principles of interpretation. *See* ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS xi–xvii (2012). A CRS report identified thirty-three semantic and twenty-three substantive interpretive tools. *See* Brannon *supra* note 12. This report mainly discusses oft-used substantive canons applicable in the criminal law arena. This report does not survey the entire scope of possible criminal law canons of construction, which may be found in the two above-cited sources.

[16] As observed *supra* notes 5–6, defendant may raise other potential challenges in the criminal context. This report discusses selected challenges regarding criminal law as written or applied to general categories of conduct.

[17] Morissette v. United States, 342 U.S. 246, 250 (1952).

[18] McBoyle v. United States, 283 U.S. 25, 27 (1931); Winters v. New York, 333 U.S. 507, 515 (1948) ("Men of common intelligence cannot be required to guess at the meaning of the enactment." (citing Connally v. Gen. Const. Co., 269 U.S. 385, 391–92 (1926))).

that his or her conduct risks criminal sanction.[19] Clarity also helps law enforcement identify when an individual has actually engaged in forbidden conduct such that criminal punishment may be warranted.[20] By contrast, an unclear line may invite arbitrary and discriminatory enforcement practices.[21]

A criminal law that fails to provide the requisite clarity may be invalidated under the Fifth Amendment's void-for-vagueness doctrine.[22] For example, in a series of cases—*Johnson v. United States*,[23] *Sessions v. Dimaya*,[24] and *United States v. Davis*[25]—the Supreme Court applied this doctrine to strike down three related federal criminal provisions that generally prohibit felonies involving a "serious potential" or "substantial" risk of physical injury or use of force. Where a narrow construction of an indeterminate statute is feasible, however, the Supreme Court may adopt that construction so as to avoid a vagueness problem.[26] For instance, the Court has adopted narrow constructions of certain federal fraud statutes in response to vagueness considerations. In response to the Court's reading of the federal mail fraud statute's scope as being limited to protecting property rights in *McNally v. United States*,[27] Congress enacted subsequent legislation defining mail and wire fraud to include "honest services" fraud.[28] Interpreting the new language in the face of a vagueness challenge, the Court confined the honest-services provision to fraud schemes involving bribes or kickbacks in *Skilling v. United States*.[29]

Congressional Intent: Ensuring That the Law Does Not Sweep More Broadly Than Congress Intended

If there is a dispute about the meaning of a federal criminal statute, a court may look to evidence of what Congress intended to proscribe.[30] To discern congressional intent, courts may use various

[19] *See* Bouie v. City of Columbia, 378 U.S. 347, 350 (1964) (holding that the plaintiffs' criminal trespass convictions for participating in a "sit-in" protest in a South Carolina drug store violated the Due Process Clause requirement that "a criminal statute give fair warning of the conduct which it prohibits").

[20] *See* Smith v. Goguen, 415 U.S. 566, 574 (1974) (observing that the most important aspect of the vagueness doctrine requirement is that "a legislature establish minimal guidelines to govern law enforcement").

[21] *Id.* at 572–74.

[22] Cong. Rsch. Serv., *Overview of Void for Vagueness Doctrine*, CONSTITUTION ANNOTATED, https://constitution.congress.gov/browse/essay/amdt5-8-1/ALDE_00013739/ (last visited Sept. 30, 2025).

[23] 576 U.S. 591, 597–98, 602 (2015) (invalidating 18 U.S.C. § 924(e)(2)(B)(ii)).

[24] 584 U.S. 148, 174–75 (2018) (invalidating 18 U.S.C. § 16(b)).

[25] 588 U.S. 445, 470 (2019) (invalidating 18 U.S.C. § 924(c)(3)(b)). A common issue in these cases is the concern, expressed by the Court, that to determine if a predicate offense qualified as a violent offense or crime of violence, the judge would be required to "imagine" whether the offense in an "'ordinary case'" presented a certain degree of risk of physical injury to another, an inquiry that the Court faulted for its "'unpredictability and arbitrariness.'" *Id.* at 452 (quoting Johnson v. United States, 576 U.S. 591, 598 (2015)).

[26] Skilling v. United States, 561 U.S. 358, 405–06 (2010). The Court has pointed out, however, that it has never adopted a construction of a criminal statute to avoid a constitutional issue with the effect of expanding the reach of the criminal statute. *See Davis*, 588 U.S. at 463 ("no one before us has identified a case in which this Court has invoked the canon to *expand* the reach of a criminal statute in order to save it.").

[27] 483 U.S. 350, 360 (1987).

[28] 18 U.S.C. § 1346; *see also* Cleveland v. United States, 531 U.S. 12, 19–20 (2000) (observing that in response to Court's rulings, "Congress amended the law specifically to cover one of the 'intangible rights' that lower courts had protected . . . prior to *McNally*: 'the intangible right of honest services.'") (quoting Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181).

[29] 561 U.S. at 409.

[30] *See* McElroy v. United States, 455 U.S. 642, 647–48 (1982).

tools of statutory interpretation.[31] While the universe of interpretive tools is fairly well established, judges may prefer or assign different weights to particular tools.[32] Courts often start by examining the contested text of the statute.[33] If the meaning of the text is clear, then the interpretive analysis may end.[34] If the text is ambiguous, however, courts may look to other indicia of statutory meaning.[35] These indicia may include other components of the statute, including nearby words, words that were omitted, headings, and the provision's placement in its statutory context;[36] past interpretations of the text, including precedent; the underlying reasons why the statute was enacted or proposed (that is, what was happening in society that prompted Congress to act);[37] statements, committee reports, and other legislative history signaling what Congress may have sought to accomplish in the statute;[38] and the real-life consequences of selecting from alternative interpretations of the relevant text.[39]

In 2021, in *Van Buren v. United States*, the Supreme Court applied some of these tools in determining the scope of a criminal statute punishing certain computer offenses.[40] In *Van Buren*, a police officer used a law enforcement database for non-law-enforcement purposes in violation of his department's policies.[41] The officer was convicted of violating a criminal statute that makes it unlawful to "intentionally . . . exceed[] authorized access" to certain computers and thereby obtain information.[42] The officer appealed to the Supreme Court, which relied primarily on the text and structure of the statute to hold that it applies only when an individual accesses information or an area in the computer that the individual does not have authorization to access, such as a folder rendered off-limits by a password requirement.[43] The Court also observed that if

[31] *See* Brannon *supra* note 12.

[32] *See id.* at 18.

[33] *E.g.*, BedRoc Ltd. v. United States, 541 U.S. 176, 183 (2004) (holding that Congress's use of the term "valuable" to modify "minerals" narrowed the scope of the term and that this textual analysis resolved the question before the Court).

[34] *Id.*

[35] *E.g.*, United Sav. Ass'n v. Timbers of Inwood Forest Assocs., 484 U.S. 365, 371 (1988) ("A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme. . . . ").

[36] *E.g.*, Unicolors, Inc. v. H&M Hennes & Mauritz, L.P., 595 U.S. 178, 184–86 (2022) (examining the meaning of a statute's use of the term "knowledge" by examining relevant terms in nearby statutes).

[37] *E.g.*, Ill. Brick Co. v. Illinois, 431 U.S. 720, 736 (1977) ("[W]e must bear in mind that considerations of stare decisis weigh heavily in the area of statutory construction."); District of Columbia v. Heller, 554 U.S. 570, 696–99 (2008) (Breyer, J., dissenting) (citing gun violence statistics that motivated that passage of a gun control legislation); Turner Broad. Sys. v. FCC, 520 U.S. 180, 195–97 (1997) ("We turn first to the harm or risk which prompted Congress to act.").

[38] *E.g.*, Rathbun *ex rel.* Humphrey v. United States, 295 U.S. 602, 622–25 (1935) (citing congressional debates that "demonstrate . . . the prevailing view"); Garcia v. United States, 469 U.S. 70, 76–77 (1984) ("The Committee Reports on this bill show no intent on the part of the 74th Congress to limit the amended § 320 to less than the normal reach of its words.").

[39] *E.g.*, Kirtsaeng v. John Wiley & Sons, Inc., 568 U.S. 519, 545 (2013) ("[W]e believe that the practical problems that petitioner and his *amici* have described are too serious, too extensive, and too likely to come about for us to dismiss them as insignificant—particularly in light of the ever-growing importance of foreign trade to America.").

[40] 593 U.S. 374 (2021). The Court determined that the text, context, and structure of the statute sufficiently supported Van Buren's position, suggesting that relying on any canons of construction would be akin to adding "extra icing on a cake already frosted." *Id.* at 393–94 (quoting Yates v. United States, 574 U.S. 528, 557 (2015)).

[41] *Id.* at 379–81.

[42] *Id.* at 381.

[43] *Id.* at 396. The majority examined the meaning of statutory terms, referring to dictionaries published around the time of the statute's enactment in 1984. *See, e.g., id.* at 382 (quoting RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE 649 (2d ed. 1987); BLACK'S LAW DICTIONARY 477 (5th ed. 1979); 15 OXFORD ENGLISH DICTIONARY 887 (2d ed. 1989)). The dissent faulted the "majority's reliance on modern-day uses of computers to determine what was (continued...)

the statute were read broadly to criminalize any use of a computer for a forbidden purpose, as the government urged, the statute would "attach criminal penalties to a breathtaking amount of commonplace computer activity," including an employee using a work computer to read personal emails.[44]

Likewise in 2016, in *McDonnell v. United States*, the Court unanimously held that an "official act" for purposes of a federal bribery law requires "a formal exercise of governmental power, such as a lawsuit, hearing, or administrative determination," not merely "arranging a meeting, contacting another official, or hosting an event" (as the government contended).[45] In reaching this conclusion, the Court focused primarily on the statutory text, reasoning that definitions in a legal dictionary applied in light of a canon of statutory construction and a related statute supported the narrower reading.[46]

Mens Rea Requirements: Ensuring That an Interpretation Does Not Capture Innocent Conduct

The foundational components of criminal liability generally encompass a bad act (*actus reus*) committed with an evil state of mind (*mens rea*).[47] A mental state requirement ensures that criminal law—entailing its punishment, condemnation, and collateral consequences[48]—applies only to those who are culpable and deserving of punishment.[49] A mental state requirement also draws distinctions between those who are more culpable than others, and thus who may be deserving of greater punishment.[50] Though different words and phrases may be used to describe different mental states, the Model Penal Code (MPC), often referenced by courts, offers terms for the hierarchy of mental states in criminal law.[51] According to the MPC,

- a purposeful (or intentional) act is one in which the actor commits an act *and* desires the outcome of the act;
- a knowing act is one in which the actor *has knowledge* of a high degree of certainty that if they follow through with a certain course of action, a certain result will follow, *but* the actor does not desire that result;
- a reckless act is one in which the actor *has awareness* of a substantial and unjustifiable risk that taking a course of action will lead to a certain outcome, *and* the actor takes the risk anyway; and

plausible in the 1980s[, which] wrongly assumes that Congress in 1984 was aware of how computers would be used in 2021." *Id.* at 407 (Thomas, J., dissenting).

[44] *Id.* at 393–94.

[45] 579 U.S. 550, 568–70 (2016).

[46] *Id.* at 567. As part of its analysis, the majority referenced dictionaries published relatively contemporaneously with the enactment of the reviewed statute. *See id*. at 568 (citing BLACK'S LAW DICTIONARY 278–279, 400, 1602–1603 (4th ed. 1951); WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1394, 1863 (1961)).

[47] See CRS Report R46836, *Mens Rea: An Overview of State-of-Mind Requirements for Federal Criminal Offenses*, by Michael A. Foster (2021).

[48] *See supra* notes 1–4.

[49] *See* Morissette v. United States, 342 U.S. 246, 251 (1952) (observing that a crime typically requires the "concurrence of an evil-meaning mind with an evil-doing hand."); United States v. U.S. Gypsum Co., 438 U.S. 422, 437 (1978) (describing the intent element of a criminal offense as "indispensable").

[50] *See* Foster *supra* note 47.

[51] *See id.*

- a negligent act is one in which the actor *lacks awareness* that the act will lead to a particular outcome, *but* a reasonable person exercising ordinary caution would know that the act would lead to a certain result.[52]

Within this spectrum, where Congress has not specified a mental state requirement in statute, courts generally will require at least *knowledge* to satisfy the intent element.[53] As a general matter, a negligent act will not be appropriate for criminal punishment because the actor does not possess a subjective awareness of their wrongdoing.[54] There is a fifth mental state concept that lies outside of this hierarchy, specifically a limited class of "regulatory" or "public welfare" offenses that may be committed without proof of an evil mind.[55]

The Supreme Court has sometimes rejected interpretations of criminal statutes that would result in punishment without a sufficiently culpable mental state. In *Arthur Andersen LLP v. United States*, for example, the Court considered an appeal by a large auditing company that had—citing its document retention policy—instructed its employees to destroy documents in advance of a government investigation.[56] The company was convicted of "knowingly . . . corruptly persuad[ing]" another with the intent that the other withhold documents from, or alter documents for use in, an official proceeding.[57] While the lower courts determined that the defendant could be guilty even if it honestly and sincerely believed that its conduct was lawful, the Supreme Court held that this interpretation did not adequately encompass the culpability necessary for criminal liability and could even reach innocent conduct.[58] The Court stated that "[o]nly persons conscious of wrongdoing can be said to 'knowingly . . . corruptly persuad[e].'"[59]

Countervailing Considerations: Ensuring That the Scope of a Criminal Law Does Not Intrude Upon Other Constitutional Values

The Supreme Court also interprets a criminal statute against the backdrop of certain "background principles" of American law.[60] One such principle is the notion that the states retain traditional authority to punish local criminal activity and that courts should not interpret federal criminal statutes in a manner that would encroach upon this authority, unless Congress expressly indicates

[52] MODEL PENAL CODE § 2.02 (A.L.I. 2004); *see also* United States v. Bailey, 444 U.S. 394, 404 (1980) (discussing these gradations).

[53] *See* Carter v. United States, 530 U.S. 255, 268 (2000) ("requiring proof . . . that the defendant possessed knowledge with respect to the *actus reus* of the crime").

[54] *See* Elonis v. United States, 575 U.S. 723, 737–38 (2015) (observing that the objective standard embodied in negligence is a "familiar feature of civil liability in tort law, but is inconsistent with 'the conventional requirement for criminal conduct—*awareness* of some wrongdoing'") (quoting Staples v. United States, 511 U.S. 606–07 (1994)).

[55] *E.g.*, United States v. Int'l Min. & Chem. Corp., 402 U.S. 558, 564–565 (1971) (sulfuric and other acids). Even in the context of regulatory or public welfare offenses, mens rea is not irrelevant, as these statutes typically "require at least that the defendant know that he is dealing with some dangerous or deleterious substance." *Staples*, 511 U.S. at 607 n.3.

[56] 544 U.S. 696 (2005).

[57] *Id.* at 702 (interpreting 18 U.S.C. § 1512(b)(2)).

[58] 544 U.S. at 706.

[59] *Id.*

[60] *See* Bond v. United States, 572 U.S. 844, 857 (2014).

its intent to do so.[61] This principle, predicated on federalism concerns, ensures that the Court does not interfere with the "sensitive relation between federal and state criminal jurisdiction."[62]

In *Kelly v. United States*, for example, the Court in 2020 rejected an expansive interpretation of statutory provisions criminalizing property fraud.[63] In *Kelly*, government officials had ordered road lane closures and created traffic congestion as a form of political retaliation against another government official.[64] The defendants were convicted of violating federal criminal laws prohibiting property fraud on the theory that the defendants commandeered the physical lanes, misallocated the labor of public works employees, and affected toll collection.[65] The Supreme Court ruled, however, that the fraud statutes require property to be the object of the fraud, rather than merely incidental to its execution.[66] The Court acknowledged that "the evidence the jury heard no doubt shows wrongdoing—deception, corruption, abuse of power," but the Court declined to interpret the statute to "criminalize all such conduct," reasoning that adopting a broader construction could lead to a "ballooning of federal power" by permitting the federal government "to enforce (its view of) integrity in broad swaths of state and local policymaking."[67]

Similarly, in *Bond v. United States*, the Court in 2014 narrowly construed a criminal statute related to chemical weapons.[68] In *Bond*, the defendant learned that her husband had impregnated another woman; out of revenge, the defendant placed caustic substances on things the woman was likely to touch.[69] The defendant was charged with violating a federal statute prohibiting the knowing use of any "chemical weapon," defined to include any chemical that can cause permanent harm, where such use is not intended for a peaceful purpose.[70] The Court observed that the statute was designed to address chemical warfare and international combat, which are matters that lie within the sphere of federal authority.[71] The Court emphasized that the government's reading "would transform the statute from one whose core concerns are acts of war, assassination, and terrorism into a massive federal anti-poisoning regime that reaches the simplest of assaults," which are typically handled at the local level in accordance with the state's police powers.[72]

The Rule of Lenity: Construing Ambiguous Criminal Laws in Favor of the Defendant

The rule of lenity, another judicial tool used in construing criminal statutes, provides that where there are two plausible interpretations of an ambiguous criminal statute, the interpretive tie should

[61] *See* United States v. Morrison, 529 U.S. 598, 619 (2000); United States v. Bass, 404 U.S. 336, 349–50 (1971), *superseded by statute*, Act of May 19, 1986, Pub. L. No. 99-308 § 104(b), 100 Stat. 459, *as recognized in* United States v. Holland, 841 F. Supp. 143, 145 n.3 (E.D. Pa. 1993).

[62] *Bass*, 404 U.S. at 349.

[63] 590 U.S. 391 (2020).

[64] *Id.* at 393.

[65] *Id.* at 397.

[66] *Id.* at 402.

[67] *Id.* at 393, 403–04.

[68] 564 U.S. 211 (2011).

[69] *Id.* at 214–15.

[70] *Id.* at 215; Bond v. United States, 572 U.S. 844, 856–57 (2014); 18 U.S.C. § 229F(1)(A).

[71] *Bond*, 572 U.S. at 860.

[72] *Id.* at 863.

go to the defendant.[73] The rule has deep roots. In 1820, Chief Justice John Marshall wrote that "the rule that penal laws are to be construed strictly, is perhaps not much less old than construction itself."[74] Echoing this statement, in 1959 the Supreme Court declared, "The law is settled that penal statutes are to be construed strictly, and that one 'is not to be subjected to a penalty unless the words of the statute plainly impose it.'"[75] More recently, the rule appeared in the 2008 case *United States v. Santos*.[76] In that case, the Supreme Court considered the meaning of a federal money laundering statute prohibiting the use of the "proceeds" of criminal activities for certain purposes.[77] A plurality of the Justices expressly applied the rule of lenity to conclude that "proceeds" means net profits rather than the broader sum of gross receipts, reasoning that the former interpretation "is always more defendant-friendly."[78]

Selected Recent Supreme Court Cases

In cases from the Supreme Court's 2022, 2023, and 2024 terms, the Court invoked some of these tools to construe selected federal criminal statutes. This section briefly summarizes some of these cases.

Cases from the 2022 Supreme Court Term

Counterman v. Colorado: True Threats

Counterman v. Colorado involved two relevant interpretive principles: first, that a criminal statute is interpreted so as to capture culpable conduct, and second, that a statute is not construed so as to intrude on a countervailing constitutional consideration. In *Counterman*, the defendant claimed that a statute criminalizing "true threats" lacked a sufficient mens rea requirement and violated his First Amendment rights.[79] The Court ruled for the defendant, holding that a statement is a "true threat" unprotected by the First Amendment (and thus punishable under criminal law) only if the government proves that the defendant had some subjective understanding of the statement's threatening nature, meaning that the government would have to prove that the defendant was at least reckless in this regard.[80] The Court indicated that, in the First Amendment context, a requirement of subjective awareness would help avoid the possibility of chilling or deterring otherwise protected speech.[81]

United States v. Hansen: Encouraging Unlawful Entry into the United States

In *United States v. Hansen*,[82] the Supreme Court turned to congressional intent to narrowly construe a federal criminal statute that makes it unlawful to encourage or induce "an alien to

[73] *See* United States v. Granderson, 511 U.S. 39, 54 (1994); Staples v. United States, 511 U.S. 600, 619 n.17 (1994) (describing but not applying the rule of lenity).

[74] United States v. Wiltberger, 18 U.S. (5 Wheat.) 76, 95 (1820).

[75] Comm'r v. Acker, 361 U.S. 87, 91 (1959) (quoting Keppel v. Tiffin Sav. Bank, 197 U.S. 356, 362 (1905).

[76] United States v. Santos, 553 U.S. 507 (2008).

[77] *Id.* at 511–12.

[78] *Id.* at 514.

[79] Counterman v. Colorado, 600 U.S. 66, 72–73 (2023); Cong. Rsch. Serv., *True Threats*, CONSTITUTION ANNOTATED, https://constitution.congress.gov/browse/essay/amdt1-7-5-6/ALDE_00013807/ (last visited Sept. 30, 2025).

[80] *Counterman*, 600 U.S. at 69.

[81] *Id.* at 74–75.

[82] 599 U.S. 762 (2023).

come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such" conduct is unlawful.[83] The defendant argued that the statute is constitutionally overbroad because it reaches First Amendment protected speech.[84] Under the defendant's ordinary reading of encouragement or inducement, the statute could criminalize general persuasion or abstract advocacy.[85] The Court primarily relied on statutory context and history to hold that Congress instead used these terms in their specialized sense, drawing on criminal law concepts such as aiding and abetting.[86] Under this interpretation, the Court determined that the statute prohibits only intentional solicitation or facilitation of the prohibited acts and thus was not overbroad.

Dubin v. United States: Aggravated Identity Theft

In *Dubin v. United States*, the Supreme Court narrowed the scope of a federal aggravated identity theft statute to ensure that the application of the statute aligned with congressional intent and fair notice considerations.[87] The case concerned a defendant's use of a patient's Medicaid identification number to fraudulently bill Medicaid.[88] The defendant was convicted of violating the aggravated identity theft statute on the theory that aggravated identity theft occurs when a name or other means of identification is used in fraudulent billing.[89] The Court rejected this expansive interpretation, claiming it would bring "garden-variety" overbilling within the scope of the statute.[90] The Court opted instead for the defendant's more "targeted reading," specifically that the statute applies only when the use of another person's means of identification is at the "crux" of what makes the conduct criminal.[91] The Court explained that congressional intent, reflected in the statute's "text and structure," and concerns that an interpretation should give the public fair notice of what is unlawful, supported this conclusion.[92]

Twitter v. Taamneh: Aiding and Abetting International Terrorism

In *Twitter v. Taamneh*, the Court unanimously held that the crime of aiding and abetting international terrorism cannot be read in a "boundless" fashion to "sweep in innocent bystanders as well as those who gave only tangential assistance" to terrorist organizations.[93] In *Twitter*, the plaintiffs, invoking a statute providing that anyone who commits the substantive crime of aiding and abetting international terrorism may be sued by victims of the terrorism, sought damages from social media platforms for allowing ISIS to use and benefit from their platforms, among other things.[94]

The U.S. Court of Appeals for the Ninth Circuit found that this degree of assistance sufficed for purposes of the statute.[95] The Supreme Court reversed, reasoning that under common law

[83] 8 U.S.C. § 1324(a)(1)(A)(iv).

[84] *Hansen*, 599 U.S. at 766–68.

[85] *Id.*

[86] *Id.* at 774–78.

[87] 599 U.S. 110 (2023); 18 U.S.C. § 1028A(a)(1).

[88] *Dubin*, 599 U.S. at 114.

[89] *Id.* at 116–17.

[90] *Id.* at 122.

[91] *Id.* at 118, 120.

[92] *Id.* at 118, 129–30.

[93] 598 U.S. 471, 477–78, 488–89 (2023).

[94] *Id.* at 478.

[95] Gonzalez v. Google LLC, 2 F.4th 871, 880 (9th Cir. 2021).

principles, aiding and abetting requires intentional participation generally in a specific act of terrorism.[96] Such participation is necessary, the Court explained, to keep the aiding and abetting statute "grounded in culpable misconduct."[97]

In separating culpable from innocent conduct, the Court pointed out that the text of the specific statute at issue, 18 U.S.C. § 2333, refers to the commission of "an act" of international terrorism, further indicating that general assistance to a terrorist group is insufficient for purposes of § 2333.[98] In looking at other cases and sources, the Court determined that a defendant may be held criminally responsible for the foreseeable risks of the intended tort, and the defendant need not know every particular aspect of the group's plan to be criminally culpable.[99] Here, the Court found that the platforms were at best agnostic bystanders rather than actors who intended for an act of terrorism to occur or who did anything special for the terrorists to advance the terrorists' specific plot.[100]

Cases from the 2023 Supreme Court Term

Fischer v. United States: Obstructing Official Proceedings

In *Fischer v. United States*, the Court addressed whether individuals alleged to have attempted to disrupt congressional certification of the 2020 presidential election results on January 6, 2021, may be charged under 18 U.S.C. § 1512(c)(2), which makes it unlawful to "otherwise obstruct[], influence[], or impede[] any official proceeding, or attempt[] to do so."[101] The Court determined that Section 1512(c)(1), which the Court described as "consist[ing] of many specific examples of prohibited actions undertaken with the intent to impair an object's integrity or availability for use in an official proceeding," necessarily focuses the meaning of the residual provision in Section 1512(c)(2).[102] Relying on the text of Section 1512(c)(2) and the words surrounding it, the Court held that this provision "applies only to acts that affect the integrity or availability of evidence," declining to endorse the government's broader reading that Section 1512(c)(2) "captures all forms of obstructive conduct *beyond* Section 1512(c)(1)'s focus on evidence impairment."[103] The Court reasoned that if it were to accept the government's reading that Section 1512(c)(2) prohibits "*all* means of obstructing, influencing, or impeding any official proceeding," "there would have been scant reason for Congress" to include Section 1512(c)(1).[104]

Snyder v. United States: Bribery

In *Snyder v. United States*, the Court agreed to resolve a circuit split as to whether a specific federal bribery provision also extends to gratuities, which are rewards for actions the payee has

[96] *Taamneh*, 598 U.S. at 491–92, 507.

[97] *Id.* at 490.

[98] *Id.* at 494–95.

[99] *Id.* at 495–96.

[100] *Id.* at 500–01.

[101] 603 U.S. 480 (2024); 18 U.S.C. § 1512(c)(2).

[102] *Fischer*, 603 U.S. at 489–90.

[103] *Id.* at 485 (quoting Brief for the United States at 13, Fischer v. United States, 603 U.S. 480 (2024) (No. 23-5572)).

[104] *Fischer*, 603 U.S. at 490. For discussion of *Fischer* in greater depth, see CRS Legal Sidebar LSB11126, *Fischer v. United States: Supreme Court Reads Federal Obstruction Provision Narrowly in Capitol Breach Prosecution*, by Peter G. Berris (2024).

already taken or is already committed to take without any quid pro quo agreement.[105] The provision at issue, 18 U.S.C. § 666(a)(1)(B), generally makes it a crime for a state or local government agent to corruptly solicit, demand, or agree to accept anything of value with the intent "to be influenced or rewarded in connection" with government action valued at $5,000 or more.[106]

The Court held that Section 666(a)(1)(B) does not cover gratuities for a state or local government actor's official past acts, relying in part on congressional intent—in particular, the Court pointed to differences between the provision at issue and another federal bribery statute covering gratuities.[107] The Court added that its reading would avoid any federalism problems, because a prohibition on state and local officials accepting gratuities could interfere with the judgment of the states as to when the taking of gratuities by their officials should be unlawful.[108]

Finally, the Court was troubled that the government's proposed limiting principle—that "innocuous" or "obviously benign" gratuities would not be covered by the statute—did not draw a clear or workable line between prohibited and permitted gratuities, thereby depriving state and local officials of fair notice as to what would be unlawful.[109] "Six reasons, taken together, lead us to conclude that Section 666 is a bribery statute and not a gratuities statute—text, statutory history, statutory structure, statutory punishments, federalism, and fair notice."[110] Justice Gorsuch authored a concurring opinion, expressing his view that the Court's holding was based on the rule of lenity. "Whatever the label, lenity is what's at work behind today's decision," he wrote.[111]

Garland v. Cargill: Bump-Stock Devices

The Court has also sometimes been asked to review an agency rule that delineates the scope of a statutory criminal prohibition. One recent example arose in *Garland v. Cargill*, in which the Court reviewed a final rule by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) that classified bump-stock devices—accessories that allow semiautomatic rifles to effectively mimic the firing capabilities of fully automatic weapons—as prohibited "machineguns."[112] Federal law defines a "machinegun" as a "weapon which shoots . . . automatically more than one shot, without manual reloading, by a single function of the trigger."[113] It is a criminal offense (with some exceptions) to possess a machinegun.[114] Michael Cargill surrendered two bump stocks to the ATF in response to the agency's rule and then instituted a lawsuit in federal court contesting the legality of the rule itself.[115]

In *Garland*, the Supreme Court held that a bump-stock device does not meet the statutory definition of a "machinegun" and that in issuing a contrary rule, ATF exceeded its statutory authority. With respect to the statutory phrase "single function of the trigger," the Court determined that firearms equipped with bump-stock devices do not meet it because the shooter must pull the trigger *and* maintain forward pressure on the front grip of the firearm to fire

[105] 603 U.S. 1 (2024).

[106] 18 U.S.C. § 666(a)(1)(B).

[107] *Snyder*, 603 U.S. at 5; 18 U.S.C. § 201(c).

[108] *Snyder*, 603 U.S. at 14–15.

[109] *Id.* at 15–16.

[110] *Id.* at 10.

[111] *Id.* at 21 (Gorsuch, J., concurring).

[112] Bump-Stock-Type Devices, 83 Fed. Reg. 13442 (Mar. 29, 2018) (to be codified at 27 C.F.R. pts. 447, 478, 479).

[113] 26 U.S.C. § 5845(b).

[114] 18 U.S.C. § 922(o).

[115] Garland v. Cargill, 602 U.S. 406, 414 (2024).

multiple rounds.[116] As to the term "automatically" in the statutory definition, the Court observed that a non-automatic firearm requires the shooter to "do more than simply engage the trigger one time."[117] As to a bump-stock device in particular, the Court determined that a shooter does do something more: the shooter "actively maintains just the right amount of forward pressure on the rifle's front grip with his nontrigger hand."[118] As such, the Court concluded that a bump-stock device does not fall within the statutory definition of a machinegun and that ATF exceeded its authority in issuing a rule concluding otherwise.

In this case, the Court construed both an agency rule and a governing statute to decide if the former exceeded the scope of the latter. In doing so, the Court turned to statutory text, and specifically to the phrase "single function of the trigger," to reach its determination that the agency definition was broader than what Congress intended.[119]

Cases from the 2024 Supreme Court Term

The cases addressed earlier in this report focused on challenges involving whether the defendant could be convicted under the statute as written (e.g., whether the statute is vague or whether the statute reaches the defendant's conduct). The first three cases discussed from the 2024 term entail criminal defendants, who have been convicted of violating a criminal offense, challenging laws governing their sentencing.

Hewitt v. United States and *Duffey v. United States*: First Step Act Sentencing Reductions

Criminal law not only proscribes certain conduct, but also identifies the punishment for engaging in the prohibited conduct.[120] In criminal proceedings, these components may materialize in a "guilt phase," in which the court probes whether the individual violated the criminal law, and a subsequent "sentencing phase," in which the court imposes an appropriate punishment in the event that the individual is found guilty of committing the criminal offense.[121]

Prior to the First Step Act of 2018 (FSA), a defendant convicted of a crime of violence under 18 U.S.C. § 924(c) was subject to (1) a five-year mandatory minimum sentence for a first-time offense, and (2) a twenty-five-year mandatory minimum for a second violation.[122] The twenty-

[116] *Id.* at 411–412.

[117] *Id.* at 426–27.

[118] *Id.* at 424.

[119] Not all cases in which the Supreme Court interpreted criminal provisions have been decided in favor of the defendant. One recent opinion favoring the government involved a statutory criminal prohibition. In 2024, *United States v. Rahimi*, 602 U.S. 680, 698 (2024), the Court determined that the Second Amendment did not facially bar application of a federal statute prohibiting possession of firearms by persons subject to certain domestic-violence restraining orders, reasoning under a Second-Amendment-specific test that sufficient historical support existed for the principle that "[w]hen an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed" temporarily. *Id.* at 698. The Court did not apply a mode of interpretation discussed above. Instead, the Court applied a history-centric test that asked whether the challenged firearms restriction is consistent with the nation's regulatory tradition. *Id.* at 681.

[120] *See* CRS Report R48177, *Components of Federal Criminal Law*, coordinated by Peter G. Berris (2024) ("It has been observed that 'conduct cannot be called "criminal" unless a punishment is prescribed therefor.'") (quoting WAYNE R. LAFAVE, SUBSTANTIVE CRIMINAL LAW § 1:2 (3d ed. 2023)).

[121] *See* Williams v. New York, 337 U.S. 241, 246 (1949) (distinguishing between "[t]ribunals passing on the guilt of a defendant" and "determining the kind and extent of punishment to be imposed within limits fixed by law," and discussing the differing evidentiary leeway applicable to both phases).

[122] Hewitt v. United States, 145 S. Ct. 2165, 2170 (2025).

five-year sentence would be "stacked," or served consecutively, with the five-year sentence.[123] The FSA afforded sentencing relief by providing that, for first-time offenders, only five-year mandatory minimum sentences could follow each count of conviction.[124] The FSA permitted a twenty-five-year mandatory recidivist enhancement only after a previous "final" conviction.[125] This helped ensure that the recidivist enhancement would attach to a separate, subsequent course of conduct.

The FSA applied this sentencing relief, in part, to an offense committed pre-enactment if the sentence "has not been imposed" post-enactment, or after December 21, 2018.[126] The question before the Supreme Court was whether sentencing relief is available to a defendant whose sentence was handed down before the enactment of the FSA but was vacated after the enactment of the FSA.[127] In a single opinion covering two consolidated cases, *Hewitt v. United States* and *Duffey v. United States*, the Supreme Court held that defendants in this circumstance are entitled to sentencing relief under the FSA. The Court reasoned that Congress's use of "has" in "has not been imposed" signals that Congress intended for a pre-enactment sentence that is no longer valid to be the functional equivalent of a sentence that had not been imposed.[128] If Congress intended "has been imposed" to include invalid sentences that did take place as a matter of historical record, Congress could have turned to phrases in other parts of the FSA, such as "was previously imposed," the Court clarified.[129] The Court also pointed to the meaning of a vacatur, which is to treat an order or judgment as if it never occurred.[130] The Court's probing of Congress's linguistic choices in the FSA exemplifies congressional intent guiding the Court's interpretation of criminal laws.

Esteras v. United States: Supervised Release Determinations

Esteras v. United States[131] is another instance in which the Supreme Court construed a sentencing statute to further congressional intent. *Esteras* concerned the Sentencing Reform Act of 1984 (SRA), which authorizes, and in some instances requires, federal courts to impose supervised release on an individual convicted of a federal crime.[132] In general, supervised release comprises a set of conditions that a federal defendant must comply with upon release from prison.[133] Compliance with conditions is monitored by a federal probation officer.[134] If a defendant violates a condition, the court may revoke the supervised release and may, among other things, send the defendant back to prison.[135] The SRA lists deterrence, incapacitation, and rehabilitation among

[123] *Id.*

[124] FSA, Pub. L. No. 115-391 § 403(a), 132 Stat. 5221-2 § 403(a) (2018).

[125] *Id.*

[126] *Id.* § 403(b).

[127] *Hewitt*, 145 S. Ct. at 2169.

[128] *Id.* at 2171–72.

[129] *Id.* at 2173.

[130] *Id.* at 2173–74.

[131] 145 S. Ct. 2031 (2025).

[132] 18 U.S.C. § 3583(a).

[133] U.S. SENT'G COMM'N, PRIMER: SUPERVISED RELEASE 1 (2025).

[134] 18 U.S.C. § 3601.

[135] *Id.* § 3583(e)(3).

the factors that a judge must consider in making these revocation determinations.[136] The SRA does not, however, expressly include retribution as one such factor.[137]

In *Esteras*, the Court held that a judge may not consider retribution associated with the underlying offense when making supervised-release revocation determinations.[138] In limiting the universe of what a judge can consider in revocation proceedings, the Court relied primarily on congressional intent. First, the Court, referencing the general canon of construction that "expressing one item of [an] associated group or series excludes another left unmentioned,"[139] explained that the omission of the retributive factor from Section 3583(e) supports a negative implication that Congress did not intend for courts to consider unlisted factors in revocation decisions.[140] Second, the Court added that related sentencing provisions contain all the listed revocation factors plus retribution, suggesting that the exclusion of retribution in Section 3583(e) was intentional.[141] Third, the Court observed that the purpose of supervised release is to "fulfill rehabilitative ends" and to provide "'individuals with postconfinement assistance,'" and as such the omission of retributive factors comports with the forward-looking goals of supervised release.[142]

Delligatti v. United States: Physical Force by Omission

Also in the sentencing context, the Court in *Delligatti v. United States* broadly interpreted 18 U.S.C. § 924(c), which triggers a mandatory minimum penalty of five years of imprisonment for using or carrying a firearm in the commission of a "crime of violence."[143] Section 924(c) further defines a "crime of violence" for purposes of this mandatory minimum to include an offense that is a felony and that "has as an element the use . . . of physical force against the person . . . of another."[144]

In *Delligatti*, the Court held that a defendant who causes bodily injury or death to another necessarily uses "physical force" within the meaning of Section 924(c) even if the result is caused "by omission rather than affirmative act."[145] The Court observed that "the 'use' of 'physical force' in § 924(c) encompasses the knowing or intentional causation of bodily injury," regardless of whether "an offender causes bodily injury by omission rather than affirmative act."[146] To highlight the point, the Court offered as an example that "[w]hen a young child starves to death after his parents refuse to give him food, that harm would not have occurred but for the parents' choice."[147]

[136] *Id.* (listing 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)).

[137] *Id.* (18 U.S.C. § 3553(a)(2)(A) not listed).

[138] *Esteras*, 145 S. Ct. at 2037.

[139] *Id.* at 2040.

[140] *Id.* at 2041.

[141] *Id.*

[142] *Id.* (quoting United States v. Johnson, 529 U.S. 53, 59–60 (2000)).

[143] 145 S. Ct. 797 (2025).

[144] 18 U.S.C. § 924(c).

[145] *Delligatti*, 145 S. Ct. at 805.

[146] *Id.*

[147] *Id.* at 807.

Thompson v. United States: False Statements

In *Thompson v. United States*,[148] the defendant took out three loans totaling $219,000 from a bank and, in disputing the loan service invoice, subsequently told the Federal Deposit Insurance Corporation (FDIC) that he had borrowed $110,000.[149] The defendant was then charged and convicted under 18 U.S.C. § 1014 for making "false statement[s]" to the FDIC even though he argued that one of the loans was for $110,000 and his statements were only misleading.[150] The circuit court affirmed, holding that Section 1014's prohibition against "false statements" extends to misleading statements as well.[151]

The Supreme Court reversed, narrowly construing the scope of the statute relying primarily on statutory text and structure in its analysis. The Court observed that "false" and "misleading" statements are independent concepts, with the former categorically being false and the latter being either false or true.[152] The Court therefore explained that "a statute that applies to 'any false statement' does not cover all misleading statements, because the statement must still be false."[153] Congress could have used "misleading" in Section 1014 as it has in other statutes, but opted not to, indicating Congress meant to restrict Section 1014's reach to false statements.[154] As with other criminal law cases from the 2024 term discussed above, the Court's analysis focused on discerning and applying congressional intent.[155]

Congressional Considerations

Should Congress disagree with the Court's construction of a criminal statute, it remains free (within constitutional bounds) to amend the statute consistent with its preferred interpretation. Such an effort might encompass defining or clarifying an ambiguous term or adding or refining an express mental state requirement. For example, H.R. 2799 (119th Cong.) would amend the meaning of a bump stock for purposes of federal firearms law, effectively overruling the Supreme

[148] 145 S. Ct. 821 (2025).

[149] *Id.* at 824.

[150] *Id.* at 825.

[151] *Id.*

[152] *Id.* at 826.

[153] *Id.*

[154] *Id.* at 827.

[155] One case from the 2024 term arose in a civil context, but still involved the construction of a traditional criminal law concept and therefore merits mention. The background for this case is as follows: In 2005, Congress enacted the Protection of Lawful Commerce in Arms Act (PLCAA) to prohibit lawsuits against firearm and ammunition manufacturers, distributors, dealers, and importers, seeking recovery for harm caused solely by the "criminal or unlawful misuse" of a firearm or ammunition or component part of either. 15 U.S.C. § 7903(5)(A). PLCAA also provides, however, that these entities may be liable under some exceptions, including the "predicate exception" to such immunity. *Id.* at § 7903(5)(A)(iii). PLCAA's predicate exception authorizes civil liability if (1) a defendant knowingly violated a federal or state statute regulating the sale or marketing of firearms, and (2) the defendant's violation was a proximate cause of the plaintiff's injuries. *Id.* In 2021, the Government of Mexico filed suit against seven U.S. gun manufacturers and a U.S. gun distributor, adding that PLCAA's predicate exception applied on the theory that the defendants knowingly aided and abetted gun trafficking in Mexico. Plaintiff's Memorandum of Law in Opposition to Defendants' Joint Motion to Dismiss, Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc., 663 F. Supp. 3d 425 (No. 21-cv-11269), 2022 WL 1593428. In *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025), the Supreme Court held that the violation alleged by Mexico in its complaint—that the defendants aided and abetted illegal firearms trafficking in Mexico—was insufficiently plausible to satisfy PLCAA's predicate exception, *id.* at 284–85. For more information, see CRS Report R48715, *The Protection of Lawful Commerce in Arms Act: The Supreme Court Recognizes Statutory Immunity for Firearm Companies in Case Brought by the Government of Mexico*, by Dave S. Sidhu and Jordan B. Cohen.

Court's decision in *Cargill*.[156] Precise statutory language may also be helpful in assisting the Court in its interpretive enterprise, as several of the examples above indicate that the Court seeks to honor congressional intent when construing federal statutory law.[157] These considerations may further the goals of ensuring adequate notice to individuals as to what is unlawful, providing guardrails against inconsistent enforcement, and averting court challenges, among other things. Congress may also leave the resolution of federal criminal statutes to the judiciary.

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[156] H.R. 2799 (119th Cong.).

[157] *See* Brannon, *supra* note 12, at 4 ("The predominant view of a judge's proper role in statutory interpretation is one of 'legislative supremacy.' This theory holds that when a court interprets a federal statute, it seeks 'to give effect to the intent of Congress.' Under this view, judges attempt to act as 'faithful agents' of Congress.") (first citing John F. Manning, *Without the Pretense of Legislative Intent*, 130 HARV. L. REV. 2397, 2413, 2425 (2017); then quoting United States v. Am. Trucking Ass'ns, Inc., 310 U.S. 534, 542 (1940); and then citing Jonathan T. Molot, *The Rise and Fall of Textualism*, 106 COLUM. L. REV. 1, 10 n.26 (2006)).