

Mental States in Criminal Law

The Supreme Court has recognized that crime consists of the “concurrence of an evil-meaning mind with an evil-doing hand.”¹ Accordingly, a core component of a federal criminal law is the criminal actor’s mental state, or *mens rea*.² The mental state element of a crime ensures that criminal law applies to those who are culpable and deserving of punishment. The mental state element also helps identify degrees of culpability and thus who may be deserving of greater punishment.

Mental States

Federal criminal statutory law contains no uniform mens rea standards and no generally applicable definitions of mental-state terms.³ In federal law, various words and phrases may be used to describe different mental states.⁴ Federal courts nonetheless have sometimes looked to the Model Penal Code (“MPC”), an influential work published by the American Law Institute, for guidance in interpreting mental states.⁵ As an example, this Infographic uses the MPC terms to capture the meaning and hierarchy of mental states.

General Hierarchy of Mental States⁶

Example

A baseball game has ended. Some fans proceed to a nearby crowded rooftop restaurant.

Purposefully



The actor has a conscious objective to engage in the conduct that they believe or hope will bring about a certain result **and** has a conscious objective to cause such a result.

*A patron takes their glass and throws it below at a fan of the opposing team, **hoping** to hit that fan. This is a purposeful act because the objective of the action was to hit the person below.*

Knowingly



The actor is aware that they are engaging in conduct that has a high probability of bringing about a certain result **and** is aware of a practical certainty that their conduct will cause such a result.

*A patron takes their glass and drops it on a crowd below, **believing** to a high degree of certainty that the glass would hit someone below, but without the primary goal of hitting anyone.*

Recklessly



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.

*A patron sets their glass on the edge of the rooftop ledge, with an **awareness** of a substantial risk that the glass may be knocked over, fall below, and hit someone. The patron still sets the glass down on the ledge. The glass gets bumped into and hits someone below.*

Negligently



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.

*A patron sets their glass on the edge of the rooftop ledge, **without** an awareness that it may be knocked over, fall below, and hit someone. A reasonable person would have been aware of the risk and exercised greater caution. The glass gets bumped into and hits someone below.*

Strict Liability Offenses

Under a limited category of “strict liability offenses,” the mental state of the actor is irrelevant. Generally, these offenses involve potentially harmful or injurious items and activities, such as those involving explosives and toxic substances. The potentially harmful attributes of these items or activities are said to put individuals on notice of the likelihood of regulation.⁷

¹ Morissette v. United States, 342 U.S. 246, 251–252 (1952).

² CRS Report R48177, Components of Federal Criminal Law, by Peter G. Berris and Michael A. Foster, at 32 (2024).

³ CRS Report R46836, Mens Rea: An Overview of State-of-Mind Requirements for Federal Criminal Offenses, by Michael A. Foster, at 10 (2021).

⁴ Id. at 18.

⁵ Id. at 5-6.

⁶ Model Penal Code § 2.02(2)(1985).

⁷ See Foster, supra note 3, at 13.

Author Information

Dave S. Sidhu
Legislative Attorney

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