

Chapter 13 Summary: Denials of an offence

Chapters 13 and 14 are focussed not on the definition of offences, but on the various ways in which D may avoid liability. In Chapter 13, this involves D denying that she committed the offence charged at all. However, where this denial is based upon evidence of prior fault (eg, 'I did not foresee damaging the property because I was drunk'), the rules discussed in this chapter can also provide a route for the prosecution to establish liability even in the absence of certain mens rea.

Introduction (Chapter 13.1)

It is important to understand the difference between denials of offending (the focus of this chapter) and defences properly so called (the focus of Chapter 14). Essentially, for denials, D claims that she did not commit the offence; for defences, D accepts that she completed the elements of the offence but appeals to a separate rule to try and avoid (or reduce) liability.

Intoxication (Chapter 13.2)

The most common denial of offending where prior fault can become relevant is voluntary intoxication. Where D lacks mens rea due to intoxication, D's prior fault (if the intoxication is voluntary and the intoxicant is dangerous) will substitute for D's lack of mens rea (for certain, basic intent, offences) and D will be liable (key case: *Majewski*).

Sane automatism (Chapter 13.3)

The automatism rules apply where D lacks voluntary control of her body due to an external impact. The main focus of this section is to identify what it means to lack control, to become an automaton (key case: *Coley*). However, we also discuss the (less common) possibility of prior fault.

Insanity as a denial of mens rea (Chapter 13.4)

The insanity rules apply where D denies offending on the basis of some internal malfunctioning of her body, described by the law as insanity. Although theoretically possible, the potential for prior fault is even more unlikely in this context. Thus, again, our focus is rather more upon what it means to rely on the insanity rules (key case: *Sullivan*).

Reform (Chapter 13.6)

This section discusses potential reform of each of the 'denials' discussed above, including the impact of recognising that these rules are denials of liability and not defences.

Eye on assessment (Chapter 13.7)

This section provides a scheme for how to apply and discuss these rules in the context of a problem question.